

KDADS Policies

[Access to HCBS Waiver Services for Individuals in DCF Custody](#)

Reviewers performed a gap analysis on the KDADS published policy [Access to HCBS Waiver Services for Individuals in DCF Custody](#). Reviewers examined the policy_line by line comparing it to 42 CFR 441.301 c (4) for the final rule. Reviewers concluded that the policy is presumed compliant to section four of the final rule.

[AIR Management](#)

The purpose of this policy is to establish an adverse incident reporting and management system in accordance with the statutory requirements under §1915 (c) of the Social Security Act and the health and welfare waiver assurance and associated sub-assurances. Reviewers performed a gap analysis on the KDADS published policy [AIR Management Policy](#). Reviewers examined the policy_line by line comparing it to 42 CFR 441.301 c (4) for the final rule. Reviewers concluded that this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.

[Background Check Informational Memo](#)

Reviewers performed a gap analysis on the KDADS published policy [Background Check Informational Memo](#). Reviewers examined the policy_line by line comparing it to 42 CFR 441.301 c (4) for the final rule. Reviewers concluded that this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.

[FMS Information Memorandum](#)

Reviewers performed a gap analysis on the KDADS published policy [FMS Information Memorandum](#). Reviewers examined the policy_line by line comparing it to 42 CFR 441.301 c (4) for the final rule. Reviewers concluded that this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.

[ICD-IDD Gatekeeping Policy](#)

The purpose of this Policy is to ensure compliance with the gatekeeping regulations K.A.R. 30-64-29 K.A.R. 30-63-21, and K.S.A. 39-1801 et seq. (D.D. Reform Act), and the core values of the Kansas Department for Aging and Disability Services (KDADS/CSP), which emphasize opportunities of choice, person-centered planning, independence, integration, and inclusion in the community. Reviewers performed a gap analysis on the KDADS published policy [ICD-IDD Gatekeeping Policy](#). Reviewers examined the policy_line by line comparing it to 42 CFR 441.301 c (4) for the final rule. Reviewers concluded that this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.

[IDD Crisis and Exception Policy](#)

This policy provides clarification on the established criteria for the crisis and exception process for persons eligible for HCBS-IDD services. The policy establishes processes and procedures for submitting, managing and determining crisis and exception requests and to ensure access to the waiver program services that best meet the assessed needs of the individual. Reviewers performed a gap analysis on the KDADS published policy [IDD Crisis and Exception Policy](#). Reviewers examined the policy line by line comparing it to 42 CFR 441.301 c (4) for the final rule. Reviewers concluded that this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.

[IDD Functional Eligibility Assessments and Waitlist Management Policy](#)

The purpose of this policy is to provide direction and guidance regarding functional eligibility assessment requirements, waitlist management, and associated procedures. Reviewers performed a gap analysis on the KDADS published policy [IDD Functional Eligibility Assessments and Waitlist Management](#). Reviewers examined the policy line by line comparing it to 42 CFR 441.301 c (4) for the final rule. Reviewers concluded that this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.

[KDADS Conflict of Interest Policy](#)

The purpose of this policy is to provide compliant conflict of interest mitigation for HCBS participants. Reviewers performed a gap analysis on the KDADS published policy [Reviewers examined the policy Conflict of Interest Policy](#) line by line comparing it to 42 CFR 441.301 c (4) for the final rule. Reviewers concluded that this policy is not applicable to the 42 CFR 441.301 c (4) setting rule as the purpose of this policy is to provide compliant conflict of interest mitigation for HCBS participants.

[Military Inclusion Policy](#)

This policy was developed to provide active duty or honorably discharged military personnel and/or immediate family member priority access to the HCBS waiver programs within 30 days of separation from military service. Active duty or honorably discharged military personnel and/or immediate family members are permitted to bypass the waitlist on HCBS programs in acknowledgment of their dedication and service. Reviewers performed a gap analysis on the KDADS published policy [Military Inclusion Policy](#). Reviewers examined the policy line by line comparing it to 42 CFR 441.301 c (4) for the final rule. Reviewers concluded that this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.

[Personal Care Services Policy](#)

Reviewers performed a gap analysis on the KDADS published policy [Reviewers examined the policy Personal Care Services](#) (p. 11) states For HCBS, the home and community settings of the participant must comply with the HCBS Setting Final Rule. See HCBS Setting Final Rule Transition Plan for more information. This policy was found compliant with 42 CFR 441.301 C Finale Rule as the policy indicates all settings must comply with HCBS Setting Final Rule. This implies its compliance with all provisions in 42 CFR §441.301(c) (4).

[Physical Disability Program Eligibility for Eligibility Assessor Policy](#)

This policy was designed to establish criteria for program eligibility requirements and allow contracted entities to manage the referral and intake, conduct necessary pre-screening for reasonable indicators of a potential consumer's level of care eligibility for the program. Contracted entities will function as a single point entry for community and individualized referral and function as a resource connection for individuals seeking services or receiving PD services. Reviewers performed a gap analysis on the KDADS published policy [Physical Disability Assessor Policy](#). Reviewers examined the policy line by line comparing it to 42 CFR 441.301 c (4) for the final rule. Reviewers concluded that this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.

[Physical Disability Crisis Exception Policy](#)

This Policy is designed to provide clarification of the established criteria for the crisis exception process for consumers currently on the wait list for the PD program. The policy will assist in establishing procedure and processes for managing and determining the crisis exception requests. Reviewers performed a gap analysis on the KDADS published policy [Physical Disability Crisis Exception Policy](#). Reviewers examined the policy line by line comparing it to 42 CFR 441.301 c (4) for the final rule. Reviewers concluded that this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.

[SCA Issuance Policy](#)

This policy outlines case management services in accordance with the Senior Care Act. Reviewers performed a gap analysis on the KDADS published policy [SCA ISSUANCE](#). Reviewers examined the policy line by line comparing it to 42 CFR 441.301 c (4) for the final rule. Reviewers concluded that this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.

[TA MATLOC Eligibility Policy](#)

The purpose of this policy is to provide MATLOC eligibility guidelines for applying assessment criteria for each care elements in order to determine level of care functional eligibility for the Technology Assisted (TA) program. This will allow contracted entities to manage the referral and intake and conduct necessary pre-screening for reasonable indicators for the program eligibility. Contracted entities will function as a single point entry for all community referrals and function as a resource connection for individuals seeking services for TA program. Reviewers performed a gap analysis on the KDADS published policy [TA](#)

[MATLOC Eligibility Determination](#). Reviewers examined the policy line by line comparing it to 42 CFR 441.301 c (4) for the final rule. Reviewers concluded that this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.

TBI Eligibility Policy

This policy is to provide clarification on the eligibility requirements for the Home and Community Based Services-Traumatic Brain Injury (HCBS-TBI) and Traumatic Brain Injury Rehabilitation Facility (TBIRF) program. The policy will include details about the responsibilities of the agencies/parties involved and the eligibility process for the HCBS-TBI and TBIRF program. Reviewers performed a gap analysis on the KDADS published policy [TBI Eligibility Policy](#). Reviewers examined the policy line by line comparing it to 42 CFR 441.301 c (4) for the final rule. Reviewers concluded that this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.

Working Healthy/WORK

The purpose of this policy is to formally establish the processes and procedures to transition individuals between Home and Community Based Services (HCBS) Frail and Elderly (FE), Intellectual/Developmental (IDD), Physical Disability (PD), and Traumatic Brain Injury (TBI) waiver programs and the Working Healthy/Work Opportunities Reward Kansans (WH/WORK) program. Reviewers performed a gap analysis on the KDADS published policy [Working Healthy/ Work](#). Reviewers examined the policy line by line comparing it to 42 CFR 441.301 c (4) for the final rule. As the policy transitions the individual from the HCBS program to a work program that is not receiving HCBS, most of this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule. Reviewers concluded that this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.

42 CFR 441.301 c Final Rule	Working Healthy/ WORK Policy	Gap	Remediation Strategy	Status
Affected Waivers	FE, IDD, PD, TBI			
(4) Home and Community-Based Settings. Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan:	Working Healthy/ Work The purpose of this policy is to formally establish the processes and procedures to transition individuals between Home and Community Based Services (HCBS) Frail and Elderly (FE), Intellectual/Developmental (IDD), Physical Disability (PD), and Traumatic Brain Injury (TBI) waiver programs and the Working Healthy/Work Opportunities Reward Kansans (WH/WORK) program.	The policy has no provision that ensures the individual receiving HCBS under this program has access to the opportunity to seek employment in a competitive integrated setting to the same degree as individuals not receiving HCBS.	Add language to the policy that ensures individuals transitioning to and from the setting have an opportunity to seek employment and work in a competitive integrated setting. As the policy transitions the individual from the HCBS program to a work program that is not receiving HCBS, this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.	Working Healthy/ Work Revision Date: 1/1/2021 Completion Date: 6/01/2021

42 CFR 441.301 c Final Rule	Working Healthy/ WORK Policy	Gap	Remediation Strategy	Status
Affected Waivers	FE, IDD, PD, TBI			
(i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.		The policy has no provision that ensures the individual receiving HCBS under this program has access to the opportunity to seek employment in a competitive integrated setting to the same degree as individuals not receiving HCBS.	Add language to the policy that ensures individuals transitioning to and from the setting have an opportunity to seek employment and work in a competitive integrated setting. As the policy transitions the individual from the HCBS program to a work program that is not receiving HCBS, this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(ii) The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.		The purpose of this policy is to formally establish the processes and procedures to transition individuals between Home and Community Based Services (HCBS) Frail and Elderly (FE), Intellectual/Developmental (IDD), Physical Disability (PD), and Traumatic Brain Injury (TBI) waiver programs and the Working Healthy/Work Opportunities Reward Kansans (WH/WORK) program	As the policy transitions the individual from the HCBS program to a work program that is not receiving HCBS, this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.	

42 CFR 441.301 c Final Rule	Working Healthy/ WORK Policy	Gap	Remediation Strategy	Status
Affected Waivers	FE, IDD, PD, TBI			
(iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.		The purpose of this policy is to formally establish the processes and procedures to transition individuals between Home and Community Based Services (HCBS) Frail and Elderly (FE), Intellectual/Developmental (IDD), Physical Disability (PD), and Traumatic Brain Injury (TBI) waiver programs and the Working Healthy/Work Opportunities Reward Kansans (WH/WORK) program.	As the policy transitions the individual from the HCBS program to a work program that is not receiving HCBS, this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.	
(iv) Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.		The purpose of this policy is to formally establish the processes and procedures to transition individuals between Home and Community Based Services (HCBS) Frail and Elderly (FE), Intellectual/Developmental (IDD), Physical Disability (PD), and Traumatic Brain Injury (TBI) waiver programs and the Working Healthy/Work Opportunities Reward Kansans (WH/WORK) program.	As the policy transitions the individual from the HCBS program to a work program that is not receiving HCBS, this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.	

42 CFR 441.301 c Final Rule	Working Healthy/ WORK Policy	Gap	Remediation Strategy	Status
Affected Waivers	FE, IDD, PD, TBI			
(v) Facilitates individual choice regarding services and supports, and who provides them.		The purpose of this policy is to formally establish the processes and procedures to transition individuals between Home and Community Based Services (HCBS) Frail and Elderly (FE), Intellectual/Developmental (IDD), Physical Disability (PD), and Traumatic Brain Injury (TBI) waiver programs and the Working Healthy/Work Opportunities Reward Kansans (WH/WORK) program.	As the policy transitions the individual from the HCBS program to a work program that is not receiving HCBS, this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.	
(vi) In a provider-owned or controlled residential setting, in addition to the qualities at § 441.301(c)(4)(i) through (v), the following additional conditions must be met:		The purpose of this policy is to formally establish the processes and procedures to transition individuals between Home and Community Based Services (HCBS) Frail and Elderly (FE), Intellectual/Developmental (IDD), Physical Disability (PD), and Traumatic Brain Injury (TBI) waiver programs and the Working Healthy/Work Opportunities Reward Kansans (WH/WORK) program.	As the policy transitions the individual from the HCBS program to a work program that is not receiving HCBS, this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.	

42 CFR 441.301 c Final Rule	Working Healthy/ WORK Policy	Gap	Remediation Strategy	Status
Affected Waivers	FE, IDD, PD, TBI			
(A) The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.		The purpose of this policy is to formally establish the processes and procedures to transition individuals between Home and Community Based Services (HCBS) Frail and Elderly (FE), Intellectual/Developmental (IDD), Physical Disability (PD), and Traumatic Brain Injury (TBI) waiver programs and the Working Healthy/Work Opportunities Reward Kansans (WH/WORK) program.	As the policy transitions the individual from the HCBS program to a work program that is not receiving HCBS, this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.	

42 CFR 441.301 c Final Rule	Working Healthy/ WORK Policy	Gap	Remediation Strategy	Status
Affected Waivers	FE, IDD, PD, TBI			
(B) Each individual has privacy in their sleeping or living unit:		The purpose of this policy is to formally establish the processes and procedures to transition individuals between Home and Community Based Services (HCBS) Frail and Elderly (FE), Intellectual/Developmental (IDD), Physical Disability (PD), and Traumatic Brain Injury (TBI) waiver programs and the Working Healthy/Work Opportunities Reward Kansans (WH/WORK) program.	As the policy transitions the individual from the HCBS program to a work program that is not receiving HCBS, this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.	
(1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.		The purpose of this policy is to formally establish the processes and procedures to transition individuals between Home and Community Based Services (HCBS) Frail and Elderly (FE), Intellectual/Developmental (IDD), Physical Disability (PD), and Traumatic Brain Injury (TBI) waiver programs and the Working Healthy/Work Opportunities Reward Kansans (WH/WORK) program.	As the policy transitions the individual from the HCBS program to a work program that is not receiving HCBS, this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.	

42 CFR 441.301 c Final Rule	Working Healthy/ WORK Policy	Gap	Remediation Strategy	Status
Affected Waivers	FE, IDD, PD, TBI			
(2) Individuals sharing units have a choice of roommates in that setting.		The purpose of this policy is to formally establish the processes and procedures to transition individuals between Home and Community Based Services (HCBS) Frail and Elderly (FE), Intellectual/Developmental (IDD), Physical Disability (PD), and Traumatic Brain Injury (TBI) waiver programs and the Working Healthy/Work Opportunities Reward Kansans (WH/WORK) program.	As the policy transitions the individual from the HCBS program to a work program that is not receiving HCBS, this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.	
(3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.		The purpose of this policy is to formally establish the processes and procedures to transition individuals between Home and Community Based Services (HCBS) Frail and Elderly (FE), Intellectual/Developmental (IDD), Physical Disability (PD), and Traumatic Brain Injury (TBI) waiver programs and the Working Healthy/Work Opportunities Reward Kansans (WH/WORK) program.	As the policy transitions the individual from the HCBS program to a work program that is not receiving HCBS, this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.	

42 CFR 441.301 c Final Rule	Working Healthy/ WORK Policy	Gap	Remediation Strategy	Status
Affected Waivers	FE, IDD, PD, TBI			
(C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.		The purpose of this policy is to formally establish the processes and procedures to transition individuals between Home and Community Based Services (HCBS) Frail and Elderly (FE), Intellectual/Developmental (IDD), Physical Disability (PD), and Traumatic Brain Injury (TBI) waiver programs and the Working Healthy/Work Opportunities Reward Kansans (WH/WORK) program.	As the policy transitions the individual from the HCBS program to a work program that is not receiving HCBS, this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.	
(D) Individuals are able to have visitors of their choosing at any time.		The purpose of this policy is to formally establish the processes and procedures to transition individuals between Home and Community Based Services (HCBS) Frail and Elderly (FE), Intellectual/Developmental (IDD), Physical Disability (PD), and Traumatic Brain Injury (TBI) waiver programs and the Working Healthy/Work Opportunities Reward Kansans (WH/WORK) program.	As the policy transitions the individual from the HCBS program to a work program that is not receiving HCBS, this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.	

42 CFR 441.301 c Final Rule	Working Healthy/ WORK Policy	Gap	Remediation Strategy	Status
Affected Waivers	FE, IDD, PD, TBI			
(E) The setting is physically accessible to the individual.		The purpose of this policy is to formally establish the processes and procedures to transition individuals between Home and Community Based Services (HCBS) Frail and Elderly (FE), Intellectual/Developmental (IDD), Physical Disability (PD), and Traumatic Brain Injury (TBI) waiver programs and the Working Healthy/Work Opportunities Reward Kansans (WH/WORK) program.	As the policy transitions the individual from the HCBS program to a work program that is not receiving HCBS, this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.	
(F) Any modification of the additional conditions, under § 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:		The purpose of this policy is to formally establish the processes and procedures to transition individuals between Home and Community Based Services (HCBS) Frail and Elderly (FE), Intellectual/Developmental (IDD), Physical Disability (PD), and Traumatic Brain Injury (TBI) waiver programs and the Working Healthy/Work Opportunities Reward Kansans (WH/WORK) program.	As the policy transitions the individual from the HCBS program to a work program that is not receiving HCBS, this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.	

42 CFR 441.301 c Final Rule	Working Healthy/ WORK Policy	Gap	Remediation Strategy	Status
Affected Waivers	FE, IDD, PD, TBI			
(1) Identify a specific and individualized assessed need.		The purpose of this policy is to formally establish the processes and procedures to transition individuals between Home and Community Based Services (HCBS) Frail and Elderly (FE), Intellectual/Developmental (IDD), Physical Disability (PD), and Traumatic Brain Injury (TBI) waiver programs and the Working Healthy/Work Opportunities Reward Kansans (WH/WORK) program.	As the policy transitions the individual from the HCBS program to a work program that is not receiving HCBS, this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.	
(2) Document the positive interventions and supports used prior to any modifications to the person-centered service plan.		The purpose of this policy is to formally establish the processes and procedures to transition individuals between Home and Community Based Services (HCBS) Frail and Elderly (FE), Intellectual/Developmental (IDD), Physical Disability (PD), and Traumatic Brain Injury (TBI) waiver programs and the Working Healthy/Work Opportunities Reward Kansans (WH/WORK) program.	As the policy transitions the individual from the HCBS program to a work program that is not receiving HCBS, this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.	

42 CFR 441.301 c Final Rule	Working Healthy/ WORK Policy	Gap	Remediation Strategy	Status
Affected Waivers	FE, IDD, PD, TBI			
(3) Document less intrusive methods of meeting the need that have been tried but did not work.		The purpose of this policy is to formally establish the processes and procedures to transition individuals between Home and Community Based Services (HCBS) Frail and Elderly (FE), Intellectual/Developmental (IDD), Physical Disability (PD), and Traumatic Brain Injury (TBI) waiver programs and the Working Healthy/Work Opportunities Reward Kansans (WH/WORK) program.	As the policy transitions the individual from the HCBS program to a work program that is not receiving HCBS, this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.	
(4) Include a clear description of the condition that is directly proportionate to the specific assessed need.		The purpose of this policy is to formally establish the processes and procedures to transition individuals between Home and Community Based Services (HCBS) Frail and Elderly (FE), Intellectual/Developmental (IDD), Physical Disability (PD), and Traumatic Brain Injury (TBI) waiver programs and the Working Healthy/Work Opportunities Reward Kansans (WH/WORK) program.	As the policy transitions the individual from the HCBS program to a work program that is not receiving HCBS, this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.	

42 CFR 441.301 c Final Rule	Working Healthy/ WORK Policy	Gap	Remediation Strategy	Status
Affected Waivers	FE, IDD, PD, TBI			
(5) Include regular collection and review of data to measure the ongoing Effectiveness of the modification.		The purpose of this policy is to formally establish the processes and procedures to transition individuals between Home and Community Based Services (HCBS) Frail and Elderly (FE), Intellectual/Developmental (IDD), Physical Disability (PD), and Traumatic Brain Injury (TBI) waiver programs and the Working Healthy/Work Opportunities Reward Kansans (WH/WORK) program.	As the policy transitions the individual from the HCBS program to a work program that is not receiving HCBS, this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.	
(6) Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.		The purpose of this policy is to formally establish the processes and procedures to transition individuals between Home and Community Based Services (HCBS) Frail and Elderly (FE), Intellectual/Developmental (IDD), Physical Disability (PD), and Traumatic Brain Injury (TBI) waiver programs and the Working Healthy/Work Opportunities Reward Kansans (WH/WORK) program.	As the policy transitions the individual from the HCBS program to a work program that is not receiving HCBS, this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.	

42 CFR 441.301 c Final Rule	Working Healthy/ WORK Policy	Gap	Remediation Strategy	Status
Affected Waivers	FE, IDD, PD, TBI			
(7) Include the informed consent of the individual.		The purpose of this policy is to formally establish the processes and procedures to transition individuals between Home and Community Based Services (HCBS) Frail and Elderly (FE), Intellectual/Developmental (IDD), Physical Disability (PD), and Traumatic Brain Injury (TBI) waiver programs and the Working Healthy/Work Opportunities Reward Kansans (WH/WORK) program.	As the policy transitions the individual from the HCBS program to a work program that is not receiving HCBS, this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.	
(8) Include an assurance that interventions and supports will cause no harm to the individual.		The purpose of this policy is to formally establish the processes and procedures to transition individuals between Home and Community Based Services (HCBS) Frail and Elderly (FE), Intellectual/Developmental (IDD), Physical Disability (PD), and Traumatic Brain Injury (TBI) waiver programs and the Working Healthy/Work Opportunities Reward Kansans (WH/WORK) program.	As the policy transitions the individual from the HCBS program to a work program that is not receiving HCBS, this policy is not applicable to the scope of 42 CFR §441.301(c) (4) of the Final Rule.	

Foster Care Settings

Family Foster Care Home

42 CFR 441.301 c Final Rule	Family Foster Care Home	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, PD, SED, TA, TBI			
(4) Home and Community-Based Settings. Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan: (i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	<p>K.A.R. 28-4-810. Case plan. (a) Each licensee shall be an active participant on the case-planning team with each child's child-placing agent, the sponsoring child-placing agency, and other appropriate parties to develop and implement the child's case plan.</p> <p>(b) The licensee's participation shall include the following: (1) Identifying and sharing information, as appropriate, with individuals who are directly involved in the child's case plan, including any treatment outcomes the child achieves while in the family foster home and the attainment of 41 developmentally appropriate life skills that the child needs to become functional in the community;</p> <p>K.A.R. 28-4-813 Child growth and development. (a) Social development. Each licensee shall provide for the growth and development of each child in foster care by providing the following: (2) access to individual, school, and community recreational activities</p>	<p>[partial compliant] The regulation addresses the youth having access to the greater community, and addresses work opportunities in the community, However no mention is made of the control of personal resources other than those earned through employment according to the individual's ability and age. The regulation does not address competitive integrated settings.</p>	<p>Add language to the regulation that ensures the individual receiving HCBS in this setting access to competitive integrated settings, and control of personal resources according to their ability and age.</p>	<p>KSA Public Comment Period 12/1/2018 K.A.R. Public Comment Period 12/1/2019</p> <p>Legislation Cycle 1/1/2019- Legislative Cycle 1/1/2019- 6/1/2019</p> <p>Effective Date 5/31/2020 (dependent upon when the statute regulation is signed by the Governor)</p>

42 CFR 441.301 c Final Rule	Family Foster Care Home	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, PD, SED, TA, TBI			
	<p>according to the child’s age and interest; and (3) privacy.</p> <p>K.A.R. 28-4-814 Family life. (e) Work opportunity. Each child in foster care shall have the opportunity to earn spending money at tasks or jobs according to the child’s age, ability, and case plan. The money shall be the child’s, and the child shall not be forced to provide for needs that otherwise would be provided by the licensee.</p>			

42 CFR 441.301 c Final Rule	Family Foster Care Home	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, PD, SED, TA, TBI			
<p>(ii) The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.</p>	<p>K.S.A. 65-503 Definitions. As used in this act:</p> <p>(a) “Child placement agency” means a business or service conducted, maintained or operated by a person engaged in finding homes for children by placing or arranging for the placement of such children for adoption or foster care.</p>	<p>[Silent] There is no provision that ensures the youth receiving HCBS or guardian a choice or selection of a placement in an HCBS service inside or outside of the home. There is no provision that reflects options for treatment including non-disability specific settings. There is no provision that ensures that these options are documented in the person-centered service plan. There is no provision ensuring the option for a private unit where available or appropriate. However due to the age of the individuals receiving foster care this section of the final rule may not be applicable as children or youth typically do not receive private units within a private residence or home. Some homes may offer private rooms where space is available and the child’s functional ability, safety deems appropriate after an assessment.</p>	<p>Add language that ensures for individuals receiving HCBS the treatment setting is selected by the individual or designated authority from among setting options including non-disability specific settings and an option for a private unit in a residential setting where available or appropriate. Add language that insure these setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.</p>	<p>KSAK.S.A. Public Comment Period 12/1/2018</p> <p>Legislation Cycle 1/1/2019- Legislative Cycle 1/1/2019- 6/1/2019</p> <p>Effective Date 5/31/2020 (dependent upon when the statute is signed by the Governor)</p>

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<p>(iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.</p>	<p>K.A.R. 28-4-806. Training. (c) Additional training requirements. (2) Each caregiver using physical restraint shall have a current certificate documenting completion of physical restraint and de-escalation training approved by the secretary.</p> <p>K.A.R. 28-4-807. Reporting requirements for infectious or contagious disease; positive tuberculin test; critical incidents; abuse and neglect. (d) Reporting critical incidents. (D) the physical restraint of a child in foster care;</p> <p>K.A.R. 28-4-808. Recordkeeping requirements; confidentiality (e) Child in foster care. Each licensee shall keep a file for each child in foster care that contains the following information: (3) documentation, if applicable, of a case plan authorizing the use of physical restraint;</p> <p>K.A.R. 28-4-811. Caregiver qualifications; supervision. (b) General supervision. Each licensee shall ensure that each child in foster care is supervised in accordance with the child's age, maturity, risk factors, and developmental level. Additional</p>	<p>[Conflict] it permits the use physical restraint. No provision exists ensuring the individual freedom from coercion, dignity and respect. The regulation is sufficient in terms of securing privacy. No provision to ensure individual youth needs or any modifications are included in the person-centered service plan.</p>	<p>Add language to the regulation to ensure that the individual receiving HCBS retains the right to dignity and respect. Add language that ensures individuals receiving HCBS in this setting are free from coercion and restraint as well as any modification of the additional conditions, must be supported by a specific assessed need and justified in the person-centered service plan.</p>	<p>K.S.A. Public Comment Period 12/1/2018 K.A.R. Public Comment Period 12/1/2019</p> <p>Legislation Cycle 1/1/2019- Legislative Cycle 1/1/2019- 6/1/2019</p> <p>Effective Date 5/31/2020 (dependent upon when the statute is signed by the Governor)</p>

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	<p>supervision shall be provided for any child in foster care of any age in any of the following situations:</p> <p>(1) The child has mental health issues that place the child at higher concern for risk- taking behaviors that could result in unintentional injury or drowning.</p> <p>(2) The child would be a danger to self or others.</p> <p>(3) The child functions below the child’s chronological age level. (4) The child is unable to engage in self-care.</p> <p>K.A.R. 28-4-815 Behavior management practices; prohibited punishment; physical restraint; notification requirements. (a) Behavior management practices. (c) Physical restraint. (1) Each caregiver shall ensure that before using physical restraint, other de-escalation methods are used. If other de-escalation methods fail and the behavior of the child in foster care makes physical restraint necessary for the child's own protection or the protection of others, the child shall be held as gently as possible to manage the child’s behavior.</p> <p>(2) No bonds, ties, or straps shall be used to restrict movement. The child in foster care shall be held</p>			

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	<p>only until one of the following is achieved:</p> <p>(A) The child regains behavioral control.</p> <p>(B) The child is no longer a threat to self or others.</p> <p>(C) The restraint has lasted 20 minutes with no improvement in the child’s behavior.</p> <p>(3) Each caregiver using physical restraint in any situation other than an emergency shall have a current certificate on file documenting the training in de-escalation methods and physical restraint procedures and techniques specified in K.A.R. 28-4-806.</p> <p>(4) The licensee shall have on file a case plan authorizing the use of physical restraint for each child in foster care whose behavior cannot be managed by other less intrusive methods and whose behavior requires the use of ongoing physical restraint on a recurring basis for the child's protection or the protection of others.</p> <p>K.A.R. 28-4-813 Child growth and development. (a) Social development. Each licensee shall provide for the growth and development of each child in foster</p>			

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	care by providing the following: (2) access to individual, school, and community recreational activities according to the child’s age and interest; and (3) privacy.			

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<p>(iv) Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.</p>	<p>K.A.R. 28-4-813 Child growth and development. (a) Social development. Each licensee shall provide for the growth and development of each child in foster care by providing the following: (2) access to individual, school, and community recreational activities according to the child's age and interest; and (3) privacy. (b) Culture and religion. Each licensee shall meet the cultural and religious needs of each child in foster care placed in the family foster home. (c) Recreational development. Each licensee shall provide an adequate supply of play equipment, materials, and books that meet the following requirements: (1) Are suitable to the developmental needs and interests of each child in foster care; And (2) are safe, clean, and in good repair.</p> <p>K.A.R. 28-4-814. Family life. (a) Family activities. Taking into consideration the age, needs, and case plan of each child in foster care, each licensee shall provide the following opportunities for each child in foster care: (1) Inclusion of the child in foster care in the daily life of the family, including eating meals with the</p>	[Compliant]	No remediation is required.	<p>K.A.R. Public Comment Period 12/1/2019</p> <p>Legislative Cycle 1/1/2019- 6/1/2019</p> <p>Effective Date 5/31/2020 (dependent upon when the statute is signed by the Governor) Public Comment Period 12/1/2018</p>

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	<p>family and participating in recreational activities;</p> <p>(2) ensuring that each child in foster care is provided with the same opportunities that are provided to the other children residing in the home; and</p> <p>(3) ensuring that each child in foster care is provided access to schools, church, recreational and health facilities, and other community resources.</p> <p>(b) Daily routine. Each licensee shall provide a daily routine in accordance with the age and needs of each child in foster care that includes the following:</p> <p>(1) Active and quiet play, both indoors and outdoors, weather permitting; (2) rest and sleep; and</p> <p>(3) nutritious meals and snacks. (c)</p>			

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<p>(v) Facilitates individual choice regarding services and supports, and who provides them.</p>	<p>K.A.R. 28-4-819. Health care (d) Medical and dental health of each child in foster care. (1) Each licensee shall ensure that emergency and ongoing medical and dental care is obtained for each child in foster care by providing timely access to basic, emergency, and specialized medical, mental health, and dental care and treatment services provided by qualified practitioners.</p> <p>(2) Each licensee shall ensure that, at the time of the initial placement, each child in foster care has had a health assessment conducted within the past year by a physician with a current license to practice in Kansas or by a nurse with a current license to practice in Kansas who is approved to conduct assessments.</p> <p>(3) A health assessment shall be obtained annually for each child in foster care who is less than six years of age and every two years for each child in foster care who is six years of age and older.</p>	<p>[Silent] There is no provision that ensures, for the individual receiving HCBS, the foster home will facilitate individual choice of service and supports either of the foster family as a signing authority or the youth.</p>	<p>Add language that ensures either the youth if appropriate or foster family as a signing authority is afforded choice regarding HCBS services and supports, and who provides them.</p>	<p>K.A.R. Public Comment Period 12/1/2019</p> <p>Legislative Cycle 1/1/2019- 6/1/2019</p> <p>Effective Date 5/31/2020 (dependent upon when the statute is signed by the Governor) KSA Public Comment Period 12/1/2018</p>

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	<p>(4) Each health assessment required in paragraphs (d)(2) and (3) shall be on file at the family foster home within 30 days after the child’s placement in the home.</p> <p>(5) The immunizations for each child in foster care less than 16 years of age shall be current or in process at the time the license is issued. An exemption from this requirement shall be permitted only with one of the following:</p> <p>(A) A written certification from a physician with a license to practice in Kansas stating that the physical condition of the child is such that the immunization would endanger the child's life or health; or</p> <p>(B) a written statement from the child’s parent or legal guardian that the child is an adherent of a religious denomination whose teachings are opposed to immunizations.</p>			

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(vi) In a provider-owned or controlled residential setting, in addition to the qualities at § 441.301(c)(4)(i) through (v), the following additional conditions must be met:				<p>K.S.A. Public Comment Period 12/1/2018</p> <p>Legislation Cycle 1/1/2019-</p> <p>Effective Date 5/31/2020 (dependent upon when the statute is signed by the Governor)</p>
(A) The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides	Not applicable in this setting. This is a foster setting for children and youths too young to contract. It is not appropriate for rental agreements nor do tenant rights apply.	This is a foster setting for children and youths too young to contract. It is not appropriate for rental agreements nor do tenant rights apply.		<p>K.S.A. Public Comment Period 12/1/2018</p> <p>Legislation Cycle 1/1/2019-</p> <p>Effective Date 5/31/2020 (dependent upon when the statute is signed by the Governor)</p>

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protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.				
(B) Each individual has privacy in their sleeping or living unit:	K.A.R. 28-4-821 . Sleeping arrangements. (c) Privacy for the occupants of all bedrooms shall be ensured.	[Compliant]	No remediation is required.	<p>K.A.R. Public Comment Period 12/1/2019</p> <p>Legislative Cycle 1/1/2019- 6/1/2019</p> <p>Effective Date 5/31/2020 (dependent upon when the statute is signed by the Governor)</p> <p>KSA Public Comment Period 12/1/2018</p>

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<p>(1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.</p>	<p>K.A.R. 28-4-821 (b) Each licensee shall ensure that each bedroom used for sleeping by a child in foster care meets the following requirements:</p> <p>(1) Each bedroom shall have at least 70 square feet.</p> <p>(2) Each bedroom shall have at least 45 square feet for each individual sharing the room.</p> <p>(3) The exit path from each bed to each outside exit shall have a minimum ceiling height of six feet eight inches.</p> <p>64</p> <p>(4) Each bedroom shall have a solid door to ensure privacy.</p> <p>(5) Each bedroom shall have at least two means of escape. Each means of escape shall be easily opened from the inside.</p> <p>(A) At least one means of escape shall be an unobstructed pathway leading to an exit door to the outside.</p> <p>(B) The second means of escape shall give direct access to the outside and shall be an unobstructed door or window that is able to be opened from the inside without the use of tools.</p> <p>(C) For each window used as a means of escape, all of the</p>	<p>[Silent] No regulation exists requiring lockable doors in this setting.</p>	<p>Add to the regulation that addresses individual units with lockable doors. Add regulation that ensures any units without lockable doors are addressed in the person center service plan and reflect the conclusions in the functional assessment. Add language stating any modification of the additional conditions, under paragraph (c) (4) (vi) (A) through (D) of this section, must be supported by a specific assessed need and justified in the person-centered service plan.</p>	<p>K.A.R. Public Comment Period 12/1/2019</p> <p>Legislative Cycle 1/1/2020- 6/1/2020</p> <p>Effective Date 5/31/2021 (dependent upon when the statute is signed by the Governor)</p> <p>KSA Public Comment Period 12/1/2018</p>

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	<p>following requirements shall be met:</p> <p>(i) The window shall have a width of at least 20 inches and a height of at least 24 inches.</p> <p>(ii) The window shall be within 44 inches of the floor or shall have permanent steps or another immovable fixture that brings the window to within 44 inches of the top of the steps or fixture.</p> <p>(iii) If the window is screened, the screen shall be easily removed from the inside.</p> <p>(iv) The licensee shall ensure that each occupant of the bedroom can easily exit through the window.</p>			
(2) Individuals sharing units have a choice of roommates in that setting.	<p>K.A.R. 28-4-821 (2) The children sharing the room shall be age-mates, unless the following requirements have been met:</p> <p>(A) The licensee shall notify the family foster home's sponsoring child- placing agency of the proposed sleeping arrangement.</p> <p>(B) The licensee shall request that the sponsoring child-placing agency and the child's placing agent determine if the proposed sleeping arrangement is appropriate.</p> <p>(C) The licensee shall maintain documentation of the approval of the sponsoring child-placing agency for the sleeping arrangement. (m) When any child in foster care five</p>	<p>[not compliant] There is no provision ensuring choice of roommate when possible or appropriate. KARK.A.R. 28-4-821 restricts roommates based on an assessment made by the placing agency. No provision ensures this is added to the person-centered service plan.</p>	<p>Add regulation that ensures individual or representative choice of roommate in this setting when possible or appropriate according to an assessment of need. Add provision that ensures any restriction of an individual or representatives' choice is reflected in the person-centered service plan and supported by an assessment of need. Add regulation stating that any modification of the additional conditions, under paragraph (c) (4) (vi) (A) through (D) of this section, must be supported by a specific assessed need and justified in the person-centered service plan.</p>	<p>K.A.R. Public Comment Period 12/1/2019</p> <p>Legislative Cycle 1/1/2020- 6/1/20206/1/2020</p> <p>Effective Date 5/31/2021 (dependent upon when the statute is signed by the Governor)</p> <p>KSA Public Comment Period 12/1/2018</p>

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	<p>years of age or older shares a room, the following requirements shall be met:</p> <p>(1) The child shall share the room only with children of the same sex.</p> <p>(2) The children sharing the room shall be age-mates, unless the following requirements have been met:</p> <p>(A) The licensee shall notify the family foster home's sponsoring child- placing agency of the proposed sleeping arrangement.</p> <p>(B) The licensee shall request that the sponsoring child-placing agency and the child's placing agent determine if the proposed sleeping arrangement is appropriate.</p> <p>(C) The licensee shall maintain documentation of the approval of the sponsoring child-placing agency for the sleeping arrangement.</p> <p>K.A.R. 28-4-821 (3) A child who is known to be a sexual perpetrator, or a sexual abuse victim shall not share a room until the following conditions are met:</p> <p>(A) The potential roommate arrangements are assessed by the child's placing agent, the home's sponsoring child-placing agency, and the licensee; and</p> <p>(B) based on the assessment, a determination is made by the child's placing agency that it is</p>			

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	unlikely that further sexual abuse will result from the child sharing a room.			

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(3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	K.A.R. 28-4-821 (r) Each licensee shall ensure that separate and accessible drawer space for personal belongings and closet space for clothing are available for each child in foster care.	[Silent] There is no provision that ensures the setting allows individuals receiving HCBS freedom to furnish or decorate their sleeping or living units within their placement agreements.	Add a provision that ensures the setting allows individuals receiving HCBS freedom to furnish or decorate their sleeping or living units within their placement agreements. Add language that states any modification of the additional conditions, under paragraph (c) (4) (vi) (A) through (D) of this section, must be supported by a specific assessed need and justified in the person-centered service plan.	K.A.R. Public Comment Period 12/1/2019 Legislation Cycle 1/1/2020-6/1/2020 Effective Date 5/31/2021 (dependent upon when the statute is signed by the Governor) KSA Public Comment Period 12/1/2018
(C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	K.A.R. 28-4-810. Case plan. (a) Each licensee shall be an active participant on the case-planning team with each child's child-placing agent, the sponsoring child-placing agency, and other appropriate parties to develop and implement the child's case plan. (b) The licensee's participation shall include the following: (1) Identifying and sharing information, as appropriate, with individuals who are directly involved in the child's case plan, including any treatment outcomes the child achieves while in the family foster	[partial compliant] The regulation ensures the youth in this setting is afforded the same opportunities to engage in family activities as any other youth in the setting. It includes in the activities those normal to the reasonable upbringing of a youth or child not receiving HCBS services and ensures the youth or child receives these opportunities at a minimum. Although the regulation ensures nutritious meals and snacks it does not	Add language that ensures individuals in this setting receiving HCBS have access to food at any time. Add language that ensures any modification of the additional conditions, under paragraph (c) (4) (vi) (A) through (D) of this section, must be supported by a specific assessed need and justified in the person-centered service plan.	K.A.R. Public Comment Period 12/1/2019 Legislative Cycle 1/1/2020- 6/1/2020 Effective Date 5/31/2021 (dependent upon when the statute is signed by the Governor) KSA Public Comment Period 12/1/2018

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	<p>home and the attainment of 41 developmentally appropriate life skills that the child needs to become functional in the community; (3) recommending changes in the child’s case plan to the child’s child-placing agent, if needed, including any approval needed for special activities or privileges, and participating in the case-planning conferences for the child; and</p> <p>K.A.R. 28-4-814. Family life. (a) Family activities. Taking into consideration the age, needs, and case plan of each child in foster care, each licensee shall provide the following opportunities for each child in foster care: (1) Inclusion of the child in foster care in the daily life of the family, including eating meals with the family and participating in recreational activities; (2) ensuring that each child in foster care is provided with the same opportunities that are provided to the other children residing in the home; and(3) ensuring that each child in foster care is provided access to schools, church, recreational and health facilities, and other community resources. (b) Daily routine. Each licensee shall provide a daily routine in</p>	<p>ensure that the youth or child has access to them at any time.</p>		

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	<p>accordance with the age and needs of each child in foster care that includes the following:</p> <p>(1) Active and quiet play, both indoors and outdoors, weather permitting; (2) rest and sleep; and (3) nutritious meals and snacks.</p>			
(D) Individuals are able to have visitors of their choosing at any time.	<p>K.A.R. 28-4-814. Family life. (a) Family activities. Taking into consideration the age, needs, and case plan of each child in foster care, each licensee shall provide the following opportunities for each child in foster care: (1) Inclusion of the child in foster care in the daily life of the family, including eating meals with the family and participating in recreational activities; (2) ensuring that each child in foster care is provided with the same opportunities that are provided to the other children residing in the home; and (3) ensuring that each child in foster care is provided access to schools, church,</p>	<p>[Silent] K.A.R. 28-4-814 does not include a provision ensuring individuals have an age appropriate degree of access to visitors of their choosing at any time similar to their non-HCBS peers.</p>	<p>Add language ensuring individuals have an age appropriate degree of access to visitors of their choosing at any time similar to their non-HCBS peers.</p>	<p>K.A.R. Public Comment Period 12/1/2019</p> <p>Legislative Cycle 1/1/2020- 6/1/2020</p> <p>Effective Date 5/31/2021 (dependent upon when the statute is signed by the Governor)</p>

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	<p>recreational and health facilities, and other community resources.</p> <p>(b) Daily routine. Each licensee shall provide a daily routine in accordance with the age and needs of each child in foster care that includes the following:</p> <p>(1) Active and quiet play, both indoors and outdoors, weather permitting; (2) rest and sleep; and (3) nutritious meals and snacks.</p>			
(E) The setting is physically accessible to the individual.	<p>K.A.R. 28-4-821 (b) Each licensee shall ensure that each bedroom used for sleeping by a child in foster care meets the following requirements:</p> <p>(1) Each bedroom shall have at least 70 square feet.</p> <p>(2) Each bedroom shall have at least 45 square feet for each individual sharing the room.</p> <p>(3) The exit path from each bed to each outside exit shall have a minimum ceiling height of six feet eight inches. On mental standards.</p> <p>(a) General requirements. (2) The building shall meet the legal requirements of the community as to building codes, zoning, and fire protection. Where local fire regulations do not exist, fire safety</p>	[Silent] No regulation exists requiring lockable doors in this setting.	Add language to K.A.R. 28-4-821(b) to ensure the setting is physically accessible to the individual	<p>K.A.R. Public Comment Period 12/1/2019</p> <p>Legislative Cycle 1/1/2020- 6/1/2020</p> <p>Effective Date 5/31/2021 (dependent upon when the statute is signed by the Governor)</p>

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	approval shall be obtained from the state fire marshal. (b) Premises. (1) There shall be sufficient outside play space available as determined by the number and ages of residents. (5) The structure of the facility shall be large enough to house the number of residents for which the facility was planned, the staff, substitute staff and children of the staff who are to live in it.			

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(F) Any modification of the additional conditions, under § 441.301(c) (4) (vi) (A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:	<p>K.A.R. 28-4-800. Definitions. (e) “Case plan” means the comprehensive written plan of care developed for each child in foster care by the child’s child-placing agent.</p> <p>K.A.R. 28-4-810. Case plan. (a) Each licensee shall be an active participant on the case-planning team with each child’s child-placing agent, the sponsoring child-placing agency, and other appropriate parties to develop and implement the child’s case plan.</p>	<p>[Silent] No regulation exists ensuring Any modification of the additional conditions, under § 441.301(c) (4) (vi) (A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:</p>	<p>Add language to the regulation ensuring Any modification of the additional conditions, under § 441.301(c) (4) (vi) (A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:</p>	<p>K.A.R. Public Comment Period 12/1/2019</p> <p>Legislative Cycle 1/1/2020- 6/1/2020</p> <p>Effective Date 5/31/2021 (dependent upon when the statute is signed by the Governor)</p>
(1) Identify a specific and individualized assessed need.	<p>K.A.R. 28-4-810. Case plan. (a) Each licensee shall be an active participant on the case-planning team with each child’s child-placing agent, the sponsoring child-placing agency, and other appropriate parties to develop and implement the child’s case plan. (b) The licensee’s participation shall include the following: (1) Identifying and sharing information, as appropriate, with individuals who are directly involved in the child’s case plan, including any treatment</p>	<p>[Silent] No provision exists requiring the identification of a specific and individualized assessed need in the person-centered service plan.</p>	<p>Add language that reflects the requirement that the person-centered service plan Identify a specific and individualized assessed need.</p>	<p>K.A.R. Public Comment Period 12/1/2019</p> <p>Legislative Cycle 1/1/2020- 6/1/2020</p> <p>Effective Date 5/31/2021 (dependent upon when the statute is signed by the Governor)</p>

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Waivers Affected	AU, IDD, PD, SED, TA, TBI			
	<p>outcomes the child achieves while in the family foster home and the attainment of</p> <p>41 developmentally appropriate life skills that the child needs to become functional in the community;</p> <p>(2) reporting the child's behaviors and other important information to the child's child-placing agent, the sponsoring child-placing agency, and others as indicated in the child's case plan; (3) recommending changes in the child's case plan to the child's child-placing agent, if needed, including any approval needed for special activities or privileges, and participating in the case-planning conferences for the child; and</p> <p>(4) giving the child-placing agent additional significant information about the child in foster care as it becomes known.</p>			
(2) Document the positive interventions and supports used prior to any modifications to the person-centered service plan.	<p>K.A.R. 28-4-810. Case plan. (a) Each licensee shall be an active participant on the case-planning team with each child's child-placing agent, the sponsoring child-placing agency, and other appropriate parties to develop and implement the child's case plan. (b) The licensee's participation shall include the following: (1) Identifying and sharing information, as</p>	<p>[Silent] No provision exists requiring the positive interventions and supports be documented prior to a modifications to the person-centered plan.</p>	<p>Add language that requires the documentation of positive interventions and supports used prior to any modifications to the person-centered service plan.</p>	<p>K.A.R. Public Comment Period 12/1/2019</p> <p>Legislative Cycle 1/1/2020- 6/1/2020</p> <p>Effective Date 5/31/2021 (dependent upon when the statute is signed by the Governor)</p>

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Waivers Affected	AU, IDD, PD, SED, TA, TBI			
	<p>appropriate, with individuals who are directly involved in the child's case plan, including any treatment outcomes the child achieves while in the family foster home and the attainment of</p> <p>41 developmentally appropriate life skills that the child needs to become functional in the community;</p> <p>(2) reporting the child's behaviors and other important information to the child's child-placing agent, the sponsoring child-placing agency, and others as indicated in the child's case plan; (3) recommending changes in the child's case plan to the child's child-placing agent, if needed, including any approval needed for special activities or privileges, and participating in the case-planning conferences for the child; and</p> <p>(4) giving the child-placing agent additional significant information about the child in foster care as it becomes known.</p>			
(3) Document less intrusive methods of meeting the need that have been tried but did not work.	<u>K.A.R. 28-4-810</u> . Case plan. (a) Each licensee shall be an active participant on the case-planning team with each child's child-placing agent, the sponsoring child-placing agency, and other appropriate parties to develop and implement the child's case plan. (b) The	[Silent] No provision exists within the regulation that requires the documentation off less intrusive methods of meeting the need that have been tried before be included within the person-centered service plan	Add language that requires the documentation of less intrusive methods of meeting the need that have been tried but did not work.	<p>K.A.R. Public Comment Period 12/1/2019</p> <p>Legislative Cycle 1/1/2020- 6/1/2020</p> <p>Effective Date 5/31/2021 (dependent upon when the statute is signed by the Governor)</p>

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Waivers Affected	AU, IDD, PD, SED, TA, TBI			
	<p>licensee's participation shall include the following: (1) Identifying and sharing information, as appropriate, with individuals who are directly involved in the child's case plan, including any treatment outcomes the child achieves while in the family foster home and the attainment of</p> <p>41 developmentally appropriate life skills that the child needs to become functional in the community;</p> <p>(2) reporting the child's behaviors and other important information to the child's child-placing agent, the sponsoring child-placing agency, and others as indicated in the child's case plan; (3) recommending changes in the child's case plan to the child's child-placing agent, if needed, including any approval needed for special activities or privileges, and participating in the case-planning conferences for the child; and</p> <p>(4) giving the child-placing agent additional significant information about the child in foster care as it becomes known.</p>			
(4) Include a clear description of the condition that is directly proportionate to the specific assessed need.	K.A.R. 28-4-810 . Case plan. (a) Each licensee shall be an active participant on the case-planning team with each child's child-placing agent, the sponsoring child-placing	[Silent] No provision exists within the regulation that requires the documentation of a description of the condition directly	Add language that includes within the person-centered plan a clear description of the condition that is directly proportionate to the specific assessed need.	<p>K.A.R. Public Comment Period 12/1/2019</p> <p>Legislative Cycle 1/1/2020- 6/1/2020</p> <p>Effective Date</p>

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Waivers Affected	AU, IDD, PD, SED, TA, TBI			
	<p>agency, and other appropriate parties to develop and implement the child's case plan. (b) The licensee's participation shall include the following: (1) Identifying and sharing information, as appropriate, with individuals who are directly involved in the child's case plan, including any treatment outcomes the child achieves while in the family foster home and the attainment of</p> <p>41 developmentally appropriate life skills that the child needs to become functional in the community;</p> <p>(2) reporting the child's behaviors and other important information to the child's child-placing agent, the sponsoring child-placing agency, and others as indicated in the child's case plan; (3) recommending changes in the child's case plan to the child's child-placing agent, if needed, including any approval needed for special activities or privileges, and participating in the case-planning conferences for the child; and</p> <p>(4) giving the child-placing agent additional significant information about the child in foster care as it becomes known.</p>	proportionate to the specific assessed need.		<p>5/31/2021</p> <p>(dependent upon when the statute is signed by the Governor)</p>

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Waivers Affected	AU, IDD, PD, SED, TA, TBI			
(5) Include regular collection and review of data to measure the ongoing effectiveness of the modification.	K.A.R. 28-4-810 . Case plan. (a) Each licensee shall be an active participant on the case-planning team with each child’s child-placing agent, the sponsoring child-placing agency, and other appropriate parties to develop and implement the child’s case plan. (b) The licensee’s participation shall include the following: (1) Identifying and sharing information, as appropriate, with individuals who are directly involved in the child’s case plan, including any treatment outcomes the child achieves while in the family foster home and the attainment of 41 developmentally appropriate life skills that the child needs to become functional in the community; (2) reporting the child’s behaviors and other important information to the child’s child-placing agent, the sponsoring child-placing agency, and others as indicated in the child’s case plan; (3) recommending changes in the child’s case plan to the child’s child-placing agent, if needed, including any approval needed for special activities or privileges, and participating in the case-planning conferences for the child; and	[Silent] No provision exists within the regulation that establishes periodic reviews of the person-centered plan.	Add language that establishes the regular collection, documentation and review of data to measure the ongoing effectiveness of the modification.	K.A.R. Public Comment Period 12/1/2019 Legislative Cycle 1/1/2020- 6/1/2020 Effective Date 5/31/2021 (dependent upon when the statute is signed by the Governor)

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Waivers Affected	AU, IDD, PD, SED, TA, TBI			
	(4) giving the child-placing agent additional significant information about the child in foster care as it becomes known.			
(6) Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.	K.A.R. 28-4-810 . Case plan. (a) Each licensee shall be an active participant on the case-planning team with each child's child-placing agent, the sponsoring child-placing agency, and other appropriate parties to develop and implement the child's case plan. (b) The licensee's participation shall include the following: (1) Identifying and sharing information, as appropriate, with individuals who are directly involved in the child's case plan, including any treatment outcomes the child achieves while in the family foster home and the attainment of 41 developmentally appropriate life skills that the child needs to become functional in the community; (2) reporting the child's behaviors and other important information to the child's child-placing agent, the sponsoring child-placing agency, and others as indicated in the child's case plan; (3) recommending changes in the child's case plan to the child's child-placing agent, if	[Silent] No provision exists within the regulation that establishes the collection and review of data to measure effectiveness of modifications to the person-centered plan.	Add language that requires the establishment of time limits for the periodic reviews of the person-centered service plan and any modifications to determine if the modification is still necessary or can be terminated.	K.A.R. Public Comment Period 12/1/2019 Legislative Cycle 1/1/2020- 6/1/2020 Effective Date 5/31/2021 (dependent upon when the statute is signed by the Governor)

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	needed, including any approval needed for special activities or privileges, and participating in the case-planning conferences for the child; and (4) giving the child-placing agent additional significant information about the child in foster care as it becomes known.			
(7) Include the informed consent of the individual.	K.A.R. 28-4-810 . Case plan. (a) Each licensee shall be an active participant on the case-planning team with each child's child-placing agent, the sponsoring child-placing agency, and other appropriate parties to develop and implement the child's case plan. (b) The licensee's participation shall include the following: (1) Identifying and sharing information, as appropriate, with individuals who are directly involved in the child's case plan, including any treatment outcomes the child achieves while in the family foster home and the attainment of 41 developmentally appropriate life skills that the child needs to become functional in the community; (2) reporting the child's behaviors and other important information to the child's child-placing agent, the sponsoring child-placing agency, and others as indicated in the	[Silent] No provision exists that requires the informed consent of the individual	Add language that requires informed consent of the person-centered plan.	K.A.R. Public Comment Period 12/1/2019 Legislative Cycle 1/1/2020- 6/1/2020 Effective Date 5/31/2021 (dependent upon when the statute is signed by the Governor)

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Waivers Affected	AU, IDD, PD, SED, TA, TBI			
	<p>child's case plan; (3) recommending changes in the child's case plan to the child's child-placing agent, if needed, including any approval needed for special activities or privileges, and participating in the case-planning conferences for the child; and</p> <p>(4) giving the child-placing agent additional significant information about the child in foster care as it becomes known.</p>			
<p>(8) Include an assurance that interventions and supports will cause no harm to the individual.</p>	<p>K.A.R. 28-4-810. Case plan. (a) Each licensee shall be an active participant on the case-planning team with each child's child-placing agent, the sponsoring child-placing agency, and other appropriate parties to develop and implement the child's case plan. (b) The licensee's participation shall include the following: (1) Identifying and sharing information, as appropriate, with individuals who are directly involved in the child's case plan, including any treatment outcomes the child achieves while in the family foster home and the attainment of 41 developmentally appropriate life skills that the child needs to become functional in the community;</p> <p>(2) reporting the child's behaviors and other important information to</p>	<p>[Silent] No provision exists that requires an inclusion of assurance that no harm will come to the individual as a result of interventions and supports.</p>	<p>Add language that provides assurance within the person-centered service plan, stating no harm will come to the individual as a result of interventions and supports listed within the plan.</p>	<p>K.A.R. Public Comment Period 12/1/2019</p> <p>Legislative Cycle 1/1/2020- 6/1/2020</p> <p>Effective Date 5/31/2021 (dependent upon when the statute is signed by the Governor)</p>

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	the child’s child-placing agent, the sponsoring child-placing agency, and others as indicated in the child’s case plan; (3) recommending changes in the child’s case plan to the child’s child-placing agent, if needed, including any approval needed for special activities or privileges, and participating in the case-planning conferences for the child; and (4) giving the child-placing agent additional significant information about the child in foster care as it becomes known.			

Disability Specific Camps/Day Settings

Disability Specific Camps: These types of camps in Kansas are for temporary periods of time not exceeding 30 days. As such, the HCBS Settings Final Rule does not apply. Foster Settings Licensed/Managed by DCF

Foster Care Residential Center Group Boarding Home

Foster Care Residential Center Group Boarding Home: these settings are for temporary periods of time not exceeding 30 days. As such, the HCBS Settings Final Rule does not apply. Foster Settings Licensed/Managed by DCF. HCBS services cannot be provided in Boarding Homes and therefore this setting is not covered by the HCBS Final Rule.

Adult Care Homes

Adult Day Care

42 CFR 441.301 c Final Rule	Adult Day Care K.S.A./K.A.R.	Gap	Remediation Strategy	Timeline
Waivers Affected	F.E			
<p>(4) Home and Community-Based Settings. Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan: (i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.</p>	<p>K.A.R. 26-39-103 Resident rights in adult care homes. (g) Management of financial affairs. The administrator or operator shall ensure that each resident is afforded the right to manage personal financial affairs and is not required to deposit personal funds with the adult care home.</p> <p>K.A.R. 26-39-103 Resident rights in adult care homes. (k) Work. (1) The administrator or operator shall ensure that each resident is afforded the right to refuse to perform services for the adult care home. (2) A resident may perform services for the adult care home, if the resident wishes and if all of the following conditions are met:(A) The administrator or operator, or the designee, has documented the resident's need or desire for work in the plan of care or negotiated service agreement. (B) The plan of care or negotiated service agreement specifies the nature of the services performed and whether the services are voluntary or paid. (C) The resident or resident's legal representative has signed a written agreement consenting to the work arrangement described in the plan of care or negotiated service agreement.</p> <p>(g) Management of financial affairs. The administrator or operator shall ensure that each resident is afforded the right to manage personal financial affairs and is not required to deposit personal funds with the adult care home.</p> <p>K.A.R. 28-39-147 Removed as it was revoked in 2009.</p>	<p>[Silent] K.A.R. 26-30-103(g) This regulation insures the resident can manage personal affairs however it does not mention any other personal effectives of the member. No provision exists within the regulation that requires the setting be integrated within the community, nor is there a provision requiring that that setting support the full access of the individual receiving HCBS services to the same degree of an individual not receiving Medicaid HCBS services.</p> <p>[Silent] KARK.A.R. 26-39-103 (k) The regulation only refers to work assignments within the home itself. The gap exists between the CFR's mention of work outside of the home in the community. The regulation makes no reference to residents being allowed access to work within the community or the opportunity to seek work outside of the home environment. (g) This regulation insures the resident can manage personal affairs however it does</p>	<p>K.A.R. 26-30-103 (g) Add language that references the individual's right to manage all personal effectives and resources. Add language that requires the setting is integrated in the community and support the full access of the individual to the greater community. Add language requiring that the degree of access be equal to those not receiving Medicaid HCBS.</p> <p>K.A.R. 26-30-106(k) Add Language to reference the member's right to seek, access, and engage in competitive employment outside of the home environment. (g) Add language that references the individual's right to manage all personal effects and resources. Add language that requires the setting is integrated in the community and support the full access of the individual to the greater community. Add language requiring that the degree of access be equal to those not receiving Medicaid HCBS.</p>	<p>K.A.R. Public Comment Period: 4/1/2019</p> <p>Legislation Cycle: 5/1/2019 Legislative Cycle 1/1/2020-6/1/2020</p> <p>Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)</p>

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Waivers Affected	F.E			
		not mention any other personal effects of the member. No provision exists within the regulation that requires the setting be integrated within the community, nor is there a provision requiring that that setting support the full access of the individual receiving HCBS services to the same degree of an individual not receiving Medicaid HCBS services		

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(ii) The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	Autism, Frail Elderly, Physical Disability, Technology Assisted and Traumatic Brain Injury Person-Centered Service Plan policy I.A.2 The Person-Centered Service Plan and all associated processes conducted to establish a participant's finalized plan shall meet all requirements set forth in 42 CFR § 441.301 and the requirements set forth in the 1915 (c) HCBS FE, PD, TA and TBI waivers.	[Partial Compliance] via the Person-Centered Service Plan policy. No provision exists requiring the inclusion of non-disability specific setting options. [Silent] No provision exists requiring the documentation of setting options. Additionally, no provision exists requiring the setting be selected by the individual from settings including non-disability specific settings. Nor is there a provision requiring the option for a private unit in a residential setting.	Add language requiring that the setting be selected by the individual from among setting options including non-disability specific settings. Add language requiring that the setting be selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	K.A.R. Public Comment Period: 4/1/2019 Legislation Cycle: 5/1/2019 Legislative Cycle 1/1/2020-6/1/2020 Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)
(iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	KAR 26-43-101 (d) Resident rights. Each administrator or operator shall ensure the development and implementation of written policies and procedures that incorporate the principles of individuality, autonomy, dignity, choice, privacy and a home environment for each resident. The following provisions shall be included in the policies and procedures (1) The recognition of each resident's rights, responsibilities, needs, and preferences. [Applies only to Adult Day Care] K.A.R. 26-43-200 (a)The administrator or operator of each home plus shall ensure the development and implementation of written admission transfer and discharge policies that protect the rights of each resident pursuant to K.A.R. 26-39-102. In	[Conflict] The regulations ensure the individuals rights of privacy dignity and autonomy. Regulation addresses coercion and is read to be compliant with the final rule 42 CFR 441 301c iii, specifically [Partial Compliance] K.A.R. 26-39-103(a) [Compliant] K.A.R. 26-39-103 (b)(2)	Add language ensuring an individual's right to privacy, dignity and respect. Add language that reflects the individuals receiving HCBS have the right to be free from restraint and insures that any modification must be consistent with 441.301c (F) Any modification of the additional conditions, under § 441.301(c) (4) (vi) (A) through (D), must be supported by a	K.A.R. Public Comment Period: 4/1/2019 Legislation Cycle: 5/1/2019 Legislative Cycle 1/1/2020-6/1/2020 Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)

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	<p>addition, the administrator or operator shall ensure that any resident who has one or more of the following conditions is not admitted or retained unless the negotiated service agreement includes services sufficient to meet the needs of the resident: (b) Each administrator or operator shall ensure that any resident whose clinical condition requires the use of physical restraints is not admitted or retained.</p> <p>K.A.R. 26-39-103 Resident rights in adult care homes. Resident rights in adult care homes. (a) (a) Protection and promotion of resident rights. Each administrator or operator shall ensure the protection and promotion of the rights of each resident as set forth in this regulation. Each resident shall have a right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the adult care home. 2) The administrator or operator shall ensure that each resident is afforded the right to be free from interference coercion, discrimination, or reprisal from adult care home staff in exercising the resident's rights.</p> <p>K.A.R. 26-39-103 Resident rights in adult care homes. (b) Exercise of rights. (2) The administrator or operator shall ensure that each resident is afforded the right to be free from interference, coercion, discrimination, or reprisal from adult care home staff in exercising the resident's rights.</p> <p>K.A.R.-28-39-148 and K.A.R. 28-39-430 Removed as it was revoked in 2009.</p> <p>Frail Elderly 1915(c) HCBS waiver Appendix G-2: Safeguards Concerning Restraints and Restricting Interventions (1 of 3) a. Use of Restraints. The state does not permit, or prohibits, the use of restraints.</p>	<p>[Compliant] Frail Elderly 1915(c) HCBS waiver. The administrator or operator shall ensure that each resident is afforded the right to be free from interference coercion, discrimination, or reprisal from adult care home staff in exercising the resident's rights. This citation insures the resident of any facility under the Adult Care Home umbrella term the right to be free from interference or coercion. 26-39-102 implies that restraints may be allowed if included within the negotiated service agreement it also implies that no individual will be admitted to an adult day care home that would need physical restraints. However, no provision exists that expressly illustrates the individuals receiving HCBS, freedom from restraint as it states that they may be required as treatment by the resident's clinical symptoms in 28-39-430 (This regulation was revoked in 2009.) This regulation is in [conflict] with 42CFR 441.301c (iii)</p>	<p>specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan: (A) Identify a specific and individualized assessed need, (B) document the positive inventions and supports used prior to any modification to the person-centered service plan, (C) Document less intrusive methods of meeting the need that have been tried but did not work, (D) Include a clear description of the condition that is directly proportionate to the specific assessed need, (E) Include a regular collection and review of data to measure the ongoing effectiveness of the modification, (F) Include established time limits for periodic review to determine if the modification is till necessary or can be terminated, (G) Include informed consent of the individual, (H) Includes an assurance that interventions and support will cause no harm to the individual.</p>	

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<p>(iv) Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.</p>	<p>K.A.R. 26-43-101 Administration. (d) (1) The recognition of each resident's rights, responsibilities, need and preferences;</p> <p>K.A.R. 26-39-103 Resident rights in Adult Care Homes. (a) Protection and promotion of resident rights. Each administrator or operator shall ensure the protection and promotion of the rights of each resident as set forth in this regulation. Each resident shall have a right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the adult care home.</p> <p>K.A.R. 26-30-103 Resident right in Adult Care Homes. (m) Access and visitation rights</p>	<p>[Compliant] K.A.R. 26-43-101(d)(1)</p> <p>[Silent] K.A.R. 26-39-103 (a) does not include a provision exists that excludes the definition or, practice of regimented activities within the HCBS setting of daily activities, physical environment, and social interaction.</p> <p>[Silent] K.A.R. 26-30-103 does not include a provision to ensure the individual's right to choose with whom they interact.</p>	<p>Add language that defines regimented activities. Add language that requires the setting optimize but not regiment individual independence in life making choices including daily activities, physical environment and with whom to interact without regimentation of these activities.</p>	<p>KARK.A.R. Public Comment Period: 4/1/2019</p> <p>Legislative Cycle 1/1/2020- 6/1/2020</p> <p>Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)</p>

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(v) Facilitates individual choice regarding services and supports, and who provides them.	<p>Autism, Frail Elderly, Physical Disability, Technology Assisted and Traumatic Brain Injury Person-Centered Service Plan policy II.D.2 Participant Choice Form a) The participant choice form is a standard form that educates participants on choice of services, providers, community-based vs. institutional alternatives, and self-direction vs. agency-direction models of service delivery.</p> <p>KAR 26-43-202 (a) The administrator or operator of each assisted living facility or residential health care facility shall ensure the development of a written negotiated service agreement for each resident, based on the resident's functional capacity screening, service needs, and preferences, in collaboration with the resident or the resident's legal representative, the case manager, and, if agreed to by the resident or the resident's legal representative, the resident's family. The negotiated service agreement shall provide the following information: (b) The negotiated service agreement shall promote the dignity, privacy, choice, individuality, and autonomy of the resident. KAR 26-43-202 (j) If a resident's negotiated service agreement includes the use of outside resources, the designated facility staff shall perform the following: K.A.R. 28-39-279 A Systemic Assessment Remediation work group found all regulations in the KAR 28-39 section revoked in 2009 and no longer applies.</p>	<p>[Compliant] via the Person-Centered Service Plan policy. [Compliant]</p>	No remediation is required.	<p>KAR Public Comment Period: 4/1/2019</p> <p>Legislation Cycle: 5/1/2019</p> <p>Effect Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)</p>
(vi) In a provider-owned or controlled residential setting, in addition to the qualities at § 441.301(c)(4)(i) through (v), the following additional conditions must be met:	Not applicable. There are no provider-owned or controlled residential settings in HCBS Adult Day Care.		No remediation is required.	

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(A) The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	Not applicable. There are no provider-owned or controlled residential settings in HCBS Adult Day Care.		No remediation is required.	
(B) Each individual has privacy in their sleeping or living unit:	Not applicable. There are no provider-owned or controlled residential settings in HCBS Adult Day Care.		No remediation is required.	

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(1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	Not applicable. There are no provider-owned or controlled residential settings in HCBS Adult Day Care.		No remediation is required.	
(2) Individuals sharing units have a choice of roommates in that setting.	Not applicable. There are no provider-owned or controlled residential settings in HCBS Adult Day Care.		No remediation is required.	
(3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	Not applicable. There are no provider-owned or controlled residential settings in HCBS Adult Day Care.		No remediation is required.	
(C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	K.A.R. 26-41-203 General Services. (a) Range of services. The administrator or operator of each assisted living facility shall ensure the provision or coordination of the range of services specified in each resident's negotiated service agreement. The range of services may include the following: (5) planned group and individual activities that meet the needs and interests of each resident; and (6) other services necessary to support the health and safety of each resident.	[Silent] K.A.R. 26-41-203 no provision exists in the regulation assuring individuals have the freedom and support to control their own schedules and activities within this setting. Nor is there a provision expressly requiring that individuals have access to food at all times.	Add language that to ensures that individuals have the freedom and support to control their own schedules and activities, and activities and have access to food at any time.	K.A.R. Public Comment Period: 12/1/2019 Legislative Cycle 1/1/2020- 6/1/2020 Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)
(D) Individuals are able to have visitors of their choosing at any time.	K.A.R. 26-39-103 Resident rights in adult care homes. (m) (1) The administrator or operator shall ensure the provision of immediate access to any resident by the following: (E,) immediate family or other relatives of the resident; and (F) others who are visiting with the consent of the resident subject to reasonable restrictions.	[Conflict] K.A.R. 26-39-103 (m) (1) (E- F) restricts people the resident can have immediate access to as relatives or family only and places restrictions on visitation of all others visiting with the resident.	Remove restrictions and add language that ensures HCBS members in this setting can communicate with visitors of their choosing at any time.	K.A.R. Public Comment Period: 12/1/2019 Legislative Cycle 1/1/2020- 6/1/2020 Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)

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Waivers Affected	F.E			
(E) The setting is physically accessible to the individual.	K.A.R. 26-39-103 Resident rights in adult care homes.	[Silent] K.A.R. 26-39-103 does not ensure physical accessibility to the individual.	Add language to ensure physical accessibility to the individual.	K.A.R. Public Comment Period: 12/1/2019 Legislative Cycle 1/1/2020- 6/1/2020 Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)
(F) Any modification of the additional conditions, under § 441.301(c) (4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:	<p>Person-Centered Service Plan I.A.5. All participants of a 1915(c) HCBS waiver shall have a Person-Centered Service Plan completed by their Managed Care Organization.</p> <p>Person-Centered Service Plan policy I.B.2 Additional Person-Centered Service Plan meetings may be necessary due to changes in condition or circumstance that require updates to the participant's plan, which would impact the scope, amount or duration of services included in the Person-Centered Service Plan. The following changes in condition or circumstance necessitate a Person-Centered Service Plan meeting to ensure the plan meets the participant's wishes and needs.</p> <p>a) Change in functional ability to perform two or more Activities of Daily Living (ADLs) or three or more Instrumental Activities of Daily Living (IADLs)</p>	[Complaint] through the Person-Centered Service Plan policy and KanCare contract.	No remediation is required.	

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	<p>compared to the most recently assessed functional ability;</p> <p>b) Change in behaviors that may lead to loss of foster placement or removal from the home;</p> <p>c) Significant change in informal support availability, including death or long-term absence of a primary caregiver, and/or any participant identified changes in informal caregiver availability that results in persistent unmet needs that are not addressed in the most recently developed Person-Centered Service Plan;</p> <p>d) Post-transition from any alternate setting of care (i.e.: state hospital, nursing home, etc.), when the participant was not residing in a community-based setting for thirty days or greater;</p> <p>e) Upon the request of any waiver participant, guardian or legal representative;</p> <p>f) Any health and/or safety concern;</p> <p>g) Any change in needs for an HCBS recipient not listed above.</p>			

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	<p>KanCare 2.0 RFP Specifications EVT0005464 5.4.2. Health Screening, Health Risk Assessments, and Needs Assessments. F.3.b. A reassessment of the Member's needs will take place within three (3) calendar days of discovery or notice of significant change in condition or needs. The Person-centered Service Plan (PCSP) will be dictated by State policy or HCBS Waiver, whichever is more restrictive, for HCBS Members. The reassessment can be an update to existing information in the HRA or needs assessment or a new assessment. The PCSP shall be updated to include any new required goals, interventions, or service authorizations for the Member and shall be signed by the Member, his or her guardian, Providers and other relevant parties in accordance with PCSP requirements set forth in Section 5.4.4 or as dictated by State policy for the PCSP or the HCBS Waiver.</p>			
(1) Identify a specific and individualized assessed need.	<p>Person-Centered Service Plan I.A.5. All participants of a 1915(c) HCBS waiver shall have a Person-Centered Service Plan completed by their Managed Care Organization.</p>	<p>[Complaint] through the Person-Centered Service Plan policy and KanCare contract.</p>	<p>No remediation is required.</p>	

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Waivers Affected	F.E			
	<p>KanCare 2.0 RFP Specifications EVT0005464 5.4.2. Health Screening, Health Risk Assessments, and Needs Assessments. F.3.b. A reassessment of the Member's needs will take place within three (3) calendar days of discovery or notice of significant change in condition or needs. The Person-centered Service Plan (PCSP) will be dictated by State policy or HCBS Waiver, whichever is more restrictive, for HCBS Members. The reassessment can be an update to existing information in the HRA or needs assessment or a new assessment. The PCSP shall be updated to include any new required goals, interventions, or service authorizations for the Member and shall be signed by the Member, his or her guardian, Providers and other relevant parties in accordance with PCSP requirements set forth in Section 5.4.4 or as dictated by State policy for the PCSP or the HCBS Waiver.</p>			
(2) Document the positive interventions and supports used prior to any modifications to the person-centered service plan.	<p>Person-Centered Service Plan I.A.3. The Person-Centered Service Plan and associated process shall be the document of record demonstrating compliance with 42 CFR § 441.301 and the requirements found within the 1915 (c) HCBS waivers.</p> <p>Person-Centered Service Plan I.A.5. All participants of a 1915(c) HCBS waiver shall have a Person-Centered Service Plan completed by their Managed Care Organization.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 Person-Centered Service Planning. B. The CONTRACTOR shall comply with applicable State and Federal rules (42 CFR. §, 441.301(c) and K.A.R. 30-63-1 Article 63) when developing the PCSP and associated assessments.</p>	[Complaint] through the Person-Centered Service Plan policy and KanCare contract.	No remediation required.	

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Waivers Affected	F.E			
(3) Document less intrusive methods of meeting the need that have been tried but did not work.	<p>Person-Centered Service Plan I.A.3. The Person-Centered Service Plan and associated process shall be the document of record demonstrating compliance with 42 CFR § 441.301 and the requirements found within the 1915 (c) HCBS waivers.</p> <p>Person-Centered Service Plan I.A.5. All participants of a 1915(c) HCBS waiver shall have a Person-Centered Service Plan completed by their Managed Care Organization.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 Person-Centered Service Planning. B. The CONTRACTOR shall comply with applicable State and Federal rules (42 CFR. §, 441.301(c) and K.A.R. 30-63-1 Article 63) when developing the PCSP and associated assessments.</p>	<p>[Complaint] through the Person-Centered Service Plan policy and KanCare contract.</p>	<p>No remediation is required.</p>	
(4) Include a clear description of the condition that is directly proportionate to the specific assessed need.	<p>Person-Centered Service Plan I.A.3. The Person-Centered Service Plan and associated process shall be the document of record demonstrating compliance with 42 CFR § 441.301 and the requirements found within the 1915 (c) HCBS waivers.</p> <p>Person-Centered Service Plan I.A.5. All participants of a 1915(c) HCBS waiver shall have a Person-Centered Service Plan completed by their Managed Care Organization.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 Person-Centered Service Planning. B. The CONTRACTOR shall comply with applicable State and Federal rules (42 CFR. §, 441.301(c) and K.A.R. 30-63-1 Article 63) when developing the PCSP and associated assessments.</p>	<p>[Complaint] through the Person-Centered Service Plan policy and KanCare contract.</p>	<p>No remediation is required.</p>	

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(5) Include regular collection and review of data to measure the ongoing effectiveness of the modification.	<p>Person-Centered Service Plan I.A.3. The Person-Centered Service Plan and associated process shall be the document of record demonstrating compliance with 42 CFR § 441.301 and the requirements found within the 1915 (c) HCBS waivers.</p> <p>Person-Centered Service Plan I.A.5. All participants of a 1915(c) HCBS waiver shall have a Person-Centered Service Plan completed by their Managed Care Organization.</p> <p>Person-Centered Service Plan policy II.M.1 Once MCO Care Coordinators complete the Person-Centered Service Plan process they shall monitor delivery of the plan, including conducting a six-month face-to-face visit with the participant or participant’s designated legal representative.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 Person-Centered Service Planning. B. The CONTRACTOR shall comply with applicable State and Federal rules (42 CFR. §, 441.301(c) and K.A.R. 30-63-1 Article 63) when developing the PCSP and associated assessments.</p>	<p>[Complaint] through the Person-Centered Service Plan policy and KanCare contract.</p>	<p>No remediation is required.</p>	
(6) Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.	<p>Person-Centered Service Plan policy II.M.1 Once MCO Care Coordinators complete the Person-Centered Service Plan process they shall monitor delivery of the plan, including conducting a six-month face-to-face visit with the participant or participant’s designated legal representative.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 Person-Centered Service Planning. B. The CONTRACTOR</p>	<p>[Complaint] through the Person-Centered Service Plan policy and KanCare contract.</p>	<p>No remediation is required.</p>	

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	<p>shall comply with applicable State and Federal rules (42 CFR. §, 441.301(c) and K.A.R. 30-63-1 Article 63) when developing the PCSP and associated assessments.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 Person-Centered Service Planning D. The CONTRACTOR(S) shall ensure that the PCSP is reviewed during every contact with the Member and updated at least annually or more often based on changes to Member’s needs.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.5 Service Coordination Stratification Levels and Contact Schedules G. Service Coordination contacts: The CONTRACTOR(S) shall make contacts (telephonic or face-to-face) with the Member based on the Members needs and shall describe how it will comply with the following minimum contact schedule based on the Member’s assigned Service Coordination stratification level. At a minimum, each Member receiving Service Coordination will receive an in person contact by the CONTRACTOR(S) staff or a Provider within their network) during either a Service Coordination touch point meeting or other activity: 3. Level III – Chronic Long-Term Needs:</p> <p style="padding-left: 40px;">a. At a minimum monthly telephonic contact and with a minimum of a face-to-face visit every three (3) months.</p>			

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(7) Include the informed consent of the individual.	<p>Person-Centered Service Plan policy I.A.4. No Person-Centered Service Plan shall be amended or otherwise changed without the participation of the individual and in compliance with 42 CFR § 441.301 and the 1915 (c) HCBS waivers.</p> <p>Person-Centered Service Plan policy II.G.5. A participant or participant's legal representative shall sign to acknowledge understanding and agreement or disagreement with the Person-Centered Service Plan whenever content adjustments are made that change the scope, amount or duration of services within the plan, including interim changes.</p> <p>Person-Centered Service Plan policy II.D.3.e During the meeting, the MCO Care Coordinator shall review the PII and provide education and explore the following: i. service options that will assist the participant in progress toward established goals,</p> <p>ii. identified care gaps, including assessing the participant's understanding of risks and consequences if gaps remain.</p> <p>iii. The MCO Care Coordinator shall, in instances where a participant's preferences may put him or her at health or safety risk, verify, to the best of their ability, that the participant demonstrates understanding of risk, strategies to mitigate risks, consequences, and shall make appropriate referrals to address risks.</p> <p>iv. restrictions to the participant's preferences, as stated in the PII or verbally,</p>	[Complaint] through the Person-Centered Service Plan policy	No remediation is required.	

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	<p>v. additional community and social supports available to the participant, that may not be furnished directly by the MCO.</p> <p>vi. Participants may use the assistance of non-paid supports and shall be encouraged to engage with non-paid supports when completing the PII.</p> <p>f) Person-Centered Service Plan policy II.D.3.f. PII components shall be documented within the Person-Centered Service Plan document.</p>			
(8) Include an assurance that interventions and supports will cause no harm to the individual.	<p>Person-Centered Service Plan I.A.3. The Person-Centered Service Plan and associated process shall be the document of record demonstrating compliance with 42 CFR § 441.301 and the requirements found within the 1915 (c) HCBS waivers.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 Person-Centered Service Planning. B. The CONTRACTOR shall comply with applicable State and Federal rules (42 CFR. §, 441.301(c) and K.A.R. 30-63-1 Article 63) when developing the PCSP and associated assessments.</p>	[Complaint] through the Person-Centered Service Plan policy and KanCare contract.	No remediation is required.	

Assisted Living

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Waivers Affected	FE, IDD, PD, TA, TBI			
<p>(4) Home and Community-Based Settings. Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan: (i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.</p>	<p>K.A.R. 26-39-103 Resident rights in adult care homes. (g) Management of financial affairs. The administrator or operator shall ensure that each resident is afforded the right to manage personal financial affairs and is not required to deposit personal funds with the adult care home.</p> <p>K.A.R. 26-39-103 Resident rights in adult care homes. (k) Work. (1) The administrator or operator shall ensure that each resident is afforded the right to refuse to perform services for the adult care home. (2) A resident may perform services for the adult care home, if the resident wishes and if all of the following conditions are met: (A) The administrator or operator, or the designee, has documented the resident's need or desire for work in the plan of care or negotiated service agreement. (B) The plan of care or negotiated service agreement specifies the nature of the services performed and whether the services are voluntary or paid. (C) The resident or resident's legal representative has signed a written agreement consenting to the work arrangement described in the plan of care or negotiated service agreement. (g) Management of financial affairs. The</p>	<p>[Silent] K.A.R. 26-39-103(g) does not mention any other personal resources of the individual. No provision exists within the regulation that requires the setting be integrated within the community, nor is there a provision requiring that that setting support the full access of the individual receiving HCBS services to the same degree of an individual not receiving Medicaid HCBS services</p> <p>[Silent] K.A.R. 26-39-103(k) makes no reference to residents being allowed access to work within the community or the opportunity to seek work outside of the home environment.</p>	<p>Add language that references the individual's right to manage all personal effectives and resources. Add language that requires the setting is integrated in the community and support the full access of the individual to the greater community. Add language requiring that the degree of access be equal to those not receiving Medicaid HCBS.</p> <p>Add language to reference the member's right to seek, access, and engage in competitive employment outside of the home environment. (g) Add language that references the individual's right to manage all personal effects and resources. Add language that requires the setting is integrated in the community and support the full access of the individual to the greater community. Add language requiring that the degree of access be equal to those not receiving Medicaid HCBS.</p>	<p>K.A.R. Public Comment Period: 12/1/2019</p> <p>Legislation Cycle: 5/1/2019 Legislative Cycle 1/1/2020-6/1/2020</p> <p>Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)</p>

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Waivers Affected	FE, IDD, PD, TA, TBI			
	<p>administrator or operator shall ensure that each resident is afforded the right to manage personal financial affairs and is not required to deposit personal funds with the adult care home.</p> <p>K.A.R. 28-39-147 All regulations in K.A.R chapter 28 section 39 were revoked in 2009 and do not apply.</p>			

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Waivers Affected	FE, IDD, PD, TA, TBI			
<p>(ii) The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.</p>	<p>Autism, Frail Elderly, Physical Disability, Technology Assisted and Traumatic Brain Injury Person-Centered Service Plan policy I.A.2 The Person-Centered Service Plan and all associated processes conducted to establish a participant's finalized plan shall meet all requirements set forth in 42 CFR § 441.301 and the requirements set forth in the 1915 (c) HCBS FE, PD, TA and TBI waivers.</p>	<p>[Partial Compliance] via the Person-Centered Service Plan policy. [Silent] No provision exists requiring the documentation of setting options within the person-centered service plan. Additionally, no provision exists requiring the setting be selected by the individual from settings including non-disability specific setting options. Nor is there a provision requiring the option for a private unit in a residential setting.</p>	<p>Add language requiring that the setting be selected by the individual from among setting options including non-disability specific settings. and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.</p>	<p>K.A.R. Public Comment Period: 12/1/2019</p> <p>Legislation Cycle: 5/1/2019 Legislative Cycle 1/1/2020-6/1/2020</p> <p>Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)</p>

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Waivers Affected	FE, IDD, PD, TA, TBI			
<p>(iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.</p>	<p>K.A.R. 26-39-103 Resident Rights in Adult Care Homes. (b)(2) The administrator or operator shall ensure that each resident is afforded the right to be free from interference coercion, discrimination, or reprisal from adult care home staff in exercising the resident's rights.</p> <p>K.A.R. 26-41-101 Administration. (d) Resident rights. Each administrator or operator shall ensure the development and implementation of written policies and procedures that incorporate the principles of individuality, autonomy, dignity, choice, privacy and a home environment for each resident. The following provisions shall be included in the policies and procedures (1) The recognition of each resident's rights, responsibilities, needs, and preferences.</p> <p>K.A.R.-28-39-148, K.A.R. 28-39-430 All regulations in K.A.R chapter 28 section 39 were revoked in 2009 and do not apply.</p> <p>Frail Elderly 1915(c) HCBS waiver Appendix G-2: Safeguards Concerning Restraints and Restricting Interventions (1 of 3) a. Use of</p>	<p>[Silent] K.A.R.26-39-103(b)(2) does not allow for freedom from restraint.</p> <p>[Partial Compliance] K.A.R. 26-41-101(d) does not include a provision to ensure an individual's right to respect.</p>	<p>Add language ensuring an individual's right to respect and freedom from restraint.</p>	<p>K.A.R. Public Comment Period: 12/1/2019</p> <p>Legislation Cycle: 5/1/2019 Legislative Cycle 1/1/2020-6/1/2020</p> <p>Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)</p>

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	Restraints. The state does not permit, or prohibits, the use of restraints.			

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<p>(iv) Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.</p>	<p>K.A.R. 26-43-101 Administration. (d) (1) The recognition of each resident's rights, responsibilities, need and preferences;</p> <p>K.A.R. 26-39-103 Resident rights in Adult Care Homes. (a) Protection and promotion of resident rights. Each administrator or operator shall ensure the protection and promotion of the rights of each resident as set forth in this regulation. Each resident shall have a right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the adult care home.</p> <p>K.A.R. 26-30-103 Resident right in Adult Care Homes. (m) Access and visitation rights</p>	<p>[Compliant] K.A.R. 26-43-101(d)(1)</p> <p>[Silent] K.A.R. 26-39-103 (a) does not include a provision that allows for but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, and physical environment.</p> <p>[Silent] K.A.R. 26-30-103(m) does not include a provision to ensure the individual's right to choose with whom they interact.</p>	<p>Add language that defines regimented activities. Add language that requires the setting optimize but not regiment individual independence in life making choices including daily activities, physical environment and with whom to interact without regimentation of these activities.</p>	<p>KAR K.A.R. Public Comment Period: 12/1/2019</p> <p>Legislation Cycle: 5/1/2019 Legislative Cycle 1/1/2020-6/1/2020</p> <p>Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)</p>

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Waivers Affected	FE, IDD, PD, TA, TBI			
(v) Facilitates individual choice regarding services and supports, and who provides them.	Autism, Frail Elderly, Physical Disability, Technology Assisted and Traumatic Brain Injury Person-Centered Service Plan II.D.2 Participant Choice Form a) The participant choice form is a standard form that educates participants on choice of services, providers, community-based vs. institutional alternatives, and self-direction vs. agency-direction models of service delivery.	[Compliant] via the Person-Centered Service Plan policy.	No remediation is required.	
(vi) In a provider-owned or controlled residential setting, in addition to the qualities at § 441.301(c)(4)(i) through (v), the following additional conditions must be met: (A) The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the	KARK.A.R. 26-39-102 Admission, transfer, and discharge rights of residents in adult care homes. (d) (1) The transfer or discharge is necessary for the resident's welfare, and the resident's needs cannot be met in the current adult care home. (2) The safety of other individuals in the adult care home is endangered. (3) The health of other individuals in the adult care home is endangered. (4) The resident has failed, after reasonable and appropriate notice, to pay the rates and charges imposed by the adult care home. (5) The adult care home ceases to operate.) (2) (3) (4) (5) K.A.R. 26-39-102 Admission, transfer, and discharge rights of residents in	[Non-compliant] K.A.R 26-39-102(d)(1-5) The regulation describes an eviction like process however no provision exists in the regulation requiring a leasing or residency agreement establishing a minimum of equality in regards to protections from eviction under state county or city entities for HCBS participants. [Non-compliant] K.A.R 26-39-102(e)(1) no provision exists in the regulation requiring a leasing or residency agreement establishing a minimum of equality in regards to protections from eviction under state county or city entities for HCBS participants. [Non-compliant] K.A.R 26-39-102(g)(1-5) no provision exists in the regulation requiring a leasing or residency agreement establishing a minimum of equality in regards to protections	Add language that reflects the unit or dwelling be a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides	KARK.A.R. Public Comment Period: 12/1/2019 Legislative Cycle 1/1/2020-6/1/2020 Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)

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document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	<p>adult care homes. (e) (1) Notify the resident, the resident’s legal representative, and if known, a designated family member of the transfer or discharge and the reasons; and</p> <p>K.A.R. 26-39-102 Admission, transfer, and discharge rights of residents in adult care homes. (g) Each written transfer or discharge notice shall include the following: (1) The reason for the transfer or discharge; (2) the effective date of the transfer or discharge; (3) the address and telephone number of the complaint program of the Kansas department on aging where a complaint related to involuntary transfer or discharge can be registered; (4) the address and telephone number of the state long-term care ombudsman; and (5) for residents who have developmental disabilities or who are mentally ill, the address and telephone number of the Kansas advocacy and protection organization.1)(2) (3) (4) (5) [Applies to Adult Day Care, Assisted Living, and Home Plus Settings]</p>	from eviction under state county or city entities for HCBS participants.	protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	

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Waivers Affected	FE, IDD, PD, TA, TBI			
(B) Each individual has privacy in their sleeping or living unit:	<p>K.A.R. 26-41-101 Administration (d) (5) the recognition of each resident's personal space as private and the sharing of an apartment or individual living unit only when agreed to by the resident.</p> <p>K.A.R. 26-41-202 Negotiated Service Agreement. (b) The negotiated service agreement shall promote the dignity, privacy, choice, individuality, and autonomy of the resident.</p> <p>K.A.R. 26-41-201 (b) The negotiated service agreement shall support the dignity, privacy, choice, individuality, and autonomy of the resident.</p> <p>K.A.R. 28-39-244 All regulations in K.A.R chapter 28 section 39 were revoked in 2009 and do not apply.</p>	<p>[Compliant] K.A.R. 26-41-101</p> <p>[Compliant] K.A.R. 26-41-202</p> <p>[Partial compliance] Although 26-42-101 recognizes the residents' personal space as private, these regulations lack any provision that specifically address the individual's right to privacy in their sleeping or living unit.</p>	<p>Add language that specifically addresses the individual's right to privacy in their sleeping or living unit.</p>	<p>KAR Public Comment Period: 12/1/2019</p> <p>Legislative Cycle 1/1/2020-6/1/2020</p> <p>Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)</p>

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Waivers Affected	FE, IDD, PD, TA, TBI			
(1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	[Silent] K.A.R. 28-39-148 All regulations in K.A.R chapter 28 section 39 were revoked in 2009 and do not apply.	[Silent] K.A.R. 26-41-101 does not include a provision ensuring Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	Add language to K.A.R. 26-41-101 requiring units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	K.A.R. Public Comment Period: 12/1/2019 Legislative Cycle 1/1/2020-6/1/2020 Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)
(2) Individuals sharing units have a choice of roommates in that setting.	K.A.R. 26-41-101 Administration (d) (5) the recognition of each resident's personal space as private and the sharing of an apartment or individual living unit only when agreed to by the resident;	[Conflict] K.A.R. 26-41-101(d)(5) Indicates that a change in roommate can occur without the individuals consent or knowledge.	Add language that ensures individuals receiving HCBS have a choice of roommates in that setting.	
(3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	K.A.R. 26-39-103 Resident rights in adult care homes. (o) Personal property. The administrator or operator shall ensure that each resident is afforded the right to retain and use personal possessions including furnishings and appropriate clothing as space permits, unless doing so would infringe upon the rights or health and safety of other residents. K.A.R. 26-41-101 Administration. (d) Resident rights. Each administrator or operator shall ensure the development and implementation of	[Compliant] K.A.R. 26-39-103(o) [Partial Compliance] K.A.R. 26-41-101 fails to ensure that individuals can furnish and decorate their sleeping units.	Add language that ensures that individuals receiving HCBS in this setting have the freedom furnish and decorate their sleeping or living units within the lease or other agreement.	K.A.R. Public Comment Period: 12/1/2019 Legislative Cycle 1/1/2020-6/1/2020 Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)

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	<p>written policies and procedures that incorporate the principles of individuality, autonomy, dignity, choice, privacy, and a home environment for each resident. The following provisions shall be included in the policies and procedures: (4) furnishing and decorating each resident's personal space;</p> <p>K.A.R. 28-39-148 All regulations in K.A.R chapter 28 section 39 were revoked in 2009 and do not apply.</p>			
(C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	<p>K.A.R. 26-41-203 General Services. (a) Range of services. The administrator or operator of each assisted living facility shall ensure the provision or coordination of the range of services specified in each resident's negotiated service agreement. The range of services may include the following: (5) planned group and individual activities that meet the needs and interests of each resident; and (6) other services necessary to support the health and safety of each resident.</p>	<p>[Silent] K.A.R. 26-41-203 no provision exists in the regulation assuring individuals have the freedom and support to control their own schedules and activities within this setting. Nor is there a provision expressly requiring that individuals have access to food at all times.</p>	<p>Add language that reflects the final rule stating that Individuals have the freedom and support to control their own schedules and activities, and activities and have access to food at any time.</p>	<p>K.A.R. Public Comment Period: 12/1/2019</p> <p>Legislative Cycle 1/1/2020-6/1/2020</p> <p>Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)</p>

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Waivers Affected	FE, IDD, PD, TA, TBI			
<p>(D) Individuals are able to have visitors of their choosing at any time.</p>	<p>K.A.R. 26-39-103 Resident rights in adult care homes. (m) (1) The administrator or operator shall ensure the provision of immediate access to any resident by the following: (E,) immediate family or other relatives of the resident; and (F) others who are visiting with the consent of the resident subject to reasonable restrictions.</p> <p>K.A.R. 28-39-148 All regulations in K.A.R chapter 28 section 39 were revoked in 2009 and do not apply.</p>	<p>[Conflict] K.A.R. 26-39-103 (m) (1) (E-, F) restricts people the resident can have immediate access to as relatives or family only and places restrictions on visitation of all others visiting with the resident.</p>	<p>Remove restrictions and add language that insures HCBS members in this setting can communicate with visitors of their choosing at any time.</p>	<p>K.A.R. Public Comment Period: 12/1/2019</p> <p>Legislative Cycle 1/1/2020-6/1/2020</p> <p>Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)</p>

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Waivers Affected	FE, IDD, PD, TA, TBI			
(E) The setting is physically accessible to the individual.	<p>[Silent]</p> <p>K.A.R. 28-39-225 All regulations in K.A.R chapter 28 section 39 were revoked in 2009 and do not apply</p> <p>K.A.R. 28-39-253 All regulations in K.A.R chapter 28 section 39 were revoked in 2009 and do not apply.</p>	[Silent] The regulation has no reference to physical accessibility or ADA compliance.	Add language requiring the setting to be physically accessible to the individual.	<p>K.A.R. Public Comment Period: 12/1/2019</p> <p>Legislative Cycle 1/1/2020-6/1/2020</p> <p>Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)</p>

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<p>(F) Any modification of the additional conditions, under § 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:</p>	<p>Person-Centered Service Plan I.A.5. All participants of a 1915(c) HCBS waiver shall have a Person-Centered Service Plan completed by their Managed Care Organization.</p> <p>Person-Centered Service Plan policy I.B.2 Additional Person-Centered Service Plan meetings may be necessary due to changes in condition or circumstance that require updates to the participant’s plan, which would impact the scope, amount or duration of services included in the Person-Centered Service Plan. The following changes in condition or circumstance necessitate a Person-Centered Service Plan meeting to ensure the plan meets the participant’s wishes and needs.</p> <ul style="list-style-type: none"> a) Change in functional ability to perform two or more Activities of Daily Living (ADLs) or three or more Instrumental Activities of Daily Living (IADLs) compared to the most recently assessed functional ability; b) Change in behaviors that may lead to loss of foster placement or removal from the home; c) Significant change in informal support availability, including death or long-term absence of a 	<p>[Complaint] through the Person-Centered Service Plan policy and KanCare contract.</p>	<p>No remediation is required.</p>	

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	<p>primary caregiver, and/or any participant identified changes in informal caregiver availability that results in persistent unmet needs that are not addressed in the most recently developed Person-Centered Service Plan;</p> <p>d) Post-transition from any alternate setting of care (i.e.: state hospital, nursing home, etc.), when the participant was not residing in a community-based setting for thirty days or greater;</p> <p>e) Upon the request of any waiver participant, guardian or legal representative;</p> <p>f) Any health and/or safety concern;</p> <p>g) Any change in needs for an HCBS recipient not listed above.</p>			

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	<p>KanCare 2.0 RFP Specifications EVT0005464 5.4.2. Health Screening, Health Risk Assessments, and Needs Assessments. F.3.b. A reassessment of the Member’s needs will take place within three (3) calendar days of discovery or notice of significant change in condition or needs. The Person-centered Service Plan (PCSP) will be dictated by State policy or HCBS Waiver, whichever is more restrictive, for HCBS Members. The reassessment can be an update to existing information in the HRA or needs assessment or a new assessment. The PCSP shall be updated to include any new required goals, interventions, or service authorizations for the Member and shall be signed by the Member, his or her guardian, Providers and other relevant parties in accordance with PCSP requirements set forth in Section 5.4.4 or as dictated by State policy for the PCSP or the HCBS Waiver.</p>			

42 CFR 441.301 c Final Rule	Assisted Living Facilities/ Residential Health Care Facilities K.S.A./K.A.R.	Gap	Remediation Strategy	Timeline
Waivers Affected	FE, IDD, PD, TA, TBI			
(1) Identify a specific and individualized assessed need.	<p>Person-Centered Service Plan I.A.5. All participants of a 1915(c) HCBS waiver shall have a Person-Centered Service Plan completed by their Managed Care Organization.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.2. Health Screening, Health Risk Assessments, and Needs Assessments. F.3.b. A reassessment of the Member's needs will take place within three (3) calendar days of discovery or notice of significant change in condition or needs. The Person-centered Service Plan (PCSP) will be dictated by State policy or HCBS Waiver, whichever is more restrictive, for HCBS Members. The reassessment can be an update to existing information in the HRA or needs assessment or a new assessment. The PCSP shall be updated to include any new required goals, interventions, or service authorizations for the Member and shall be signed by the Member, his or her guardian, Providers and other relevant parties in accordance with PCSP requirements set forth in Section 5.4.4 or as dictated by State policy for the PCSP or the HCBS Waiver.</p> <p>Silent</p>	<p>[Complaint] through the Person-Centered Service Plan policy and KanCare contract.</p>	<p>No remediation is required.</p>	

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Waivers Affected	FE, IDD, PD, TA, TBI			
(2) Document the positive interventions and supports used prior to any modifications to the person-centered service plan.	<p>Person-Centered Service Plan I.A.3. The Person-Centered Service Plan and associated process shall be the document of record demonstrating compliance with 42 CFR § 441.301 and the requirements found within the 1915 (c) HCBS waivers.</p> <p>Person-Centered Service Plan I.A.5. All participants of a 1915(c) HCBS waiver shall have a Person-Centered Service Plan completed by their Managed Care Organization.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 Person-Centered Service Planning. B. The CONTRACTOR shall comply with applicable State and Federal rules (42 CFR. §, 441.301(c) and K.A.R. 30-63-1 Article 63) when developing the PCSP and associated assessments.</p> <p>Silent</p>	[Complaint] through the Person-Centered Service Plan policy and KanCare contract.	No remediation required.	

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(3) Document less intrusive methods of meeting the need that have been tried but did not work.	<p>Person-Centered Service Plan I.A.3. The Person-Centered Service Plan and associated process shall be the document of record demonstrating compliance with 42 CFR § 441.301 and the requirements found within the 1915 (c) HCBS waivers.</p> <p>Person-Centered Service Plan I.A.5. All participants of a 1915(c) HCBS waiver shall have a Person-Centered Service Plan completed by their Managed Care Organization.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 Person-Centered Service Planning. B. The CONTRACTOR shall comply with applicable State and Federal rules (42 CFR. §, 441.301(c) and K.A.R. 30-63-1 Article 63) when developing the PCSP and associated assessments.</p> <p>Silent</p>	<p>[Complaint] through the Person-Centered Service Plan policy and KanCare contract.</p>	<p>No remediation is required.</p>	
(4) Include a clear description of the condition that is directly proportionate to the specific assessed need.	<p>Person-Centered Service Plan I.A.3. The Person-Centered Service Plan and associated process shall be the document of record demonstrating compliance with 42 CFR § 441.301 and the requirements found within the 1915 (c) HCBS waivers.</p>	<p>[Complaint] through the Person-Centered Service Plan policy and KanCare contract.</p>	<p>No remediation is required.</p>	

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Waivers Affected	FE, IDD, PD, TA, TBI			
	<p>Person-Centered Service Plan I.A.5. All participants of a 1915(c) HCBS waiver shall have a Person-Centered Service Plan completed by their Managed Care Organization.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 Person-Centered Service Planning. B. The CONTRACTOR shall comply with applicable State and Federal rules (42 CFR. §, 441.301(c) and K.A.R. 30-63-1 Article 63) when developing the PCSP and associated assessments.</p>			
(5) Include regular collection and review of data to measure the ongoing effectiveness of the modification.	<p>Person-Centered Service Plan I.A.3. The Person-Centered Service Plan and associated process shall be the document of record demonstrating compliance with 42 CFR § 441.301 and the requirements found within the 1915 (c) HCBS waivers.</p> <p>Person-Centered Service Plan I.A.5. All participants of a 1915(c) HCBS waiver shall have a Person-Centered Service Plan completed by their Managed Care Organization.</p> <p>Person-Centered Service Plan policy II.M.1 Once MCO Care Coordinators complete the Person-Centered Service</p>	[Complaint] through the Person-Centered Service Plan policy and KanCare contract.	No remediation is required.	

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	<p>Plan process they shall monitor delivery of the plan, including conducting a six-month face-to-face visit with the participant or participant's designated legal representative.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 Person-Centered Service Planning. B. The CONTRACTOR shall comply with applicable State and Federal rules (42 CFR. §, 441.301(c) and K.A.R. 30-63-1 Article 63) when developing the PCSP and associated assessments.</p> <p>Silent</p>			
(6) Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.	<p>Person-Centered Service Plan policy II.M.1 Once MCO Care Coordinators complete the Person-Centered Service Plan process they shall monitor delivery of the plan, including conducting a six-month face-to-face visit with the participant or participant's designated legal representative.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 Person-Centered Service Planning. B. The CONTRACTOR shall comply with applicable State and Federal rules (42 CFR. §, 441.301(c) and K.A.R. 30-63-1 Article 63) when</p>	[Complaint] through the Person-Centered Service Plan policy and KanCare contract.	No remediation is required.	

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	<p>developing the PCSP and associated assessments.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 Person-Centered Service Planning D. The CONTRACTOR(S) shall ensure that the PCSP is reviewed during every contact with the Member and updated at least annually or more often based on changes to Member’s needs.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.5 Service Coordination Stratification Levels and Contact Schedules G. Service Coordination contacts: The CONTRACTOR(S) shall make contacts (telephonic or face-to-face) with the Member based on the Members needs and shall describe how it will comply with the following minimum contact schedule based on the Member’s assigned Service Coordination stratification level. At a minimum, each Member receiving Service Coordination will receive an in person contact by the CONTRACTOR(S) staff or a Provider within their network) during either a Service Coordination</p>			

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	<p>touch point meeting or other activity:</p> <p>3. Level III – Chronic Long-Term Needs:</p> <p style="padding-left: 40px;">b. At a minimum monthly telephonic contact and with a minimum of a face-to-face visit every three (3) months.</p> <p>Silent</p>			
(7) Include the informed consent of the individual.	<p>Person-Centered Service Plan policy I.A.4. No Person-Centered Service Plan shall be amended or otherwise changed without the participation of the individual and in compliance with 42 CFR § 441.301 and the 1915 (c) HCBS waivers.</p> <p>Person-Centered Service Plan policy II.G.5. A participant or participant's legal representative shall sign to acknowledge understanding and agreement or disagreement with the Person-Centered Service Plan whenever content adjustments are made that change the scope, amount or duration of services within the plan, including interim changes.</p>	<p>[Complaint] through the Person-Centered Service Plan policy</p> <p>[Silent] No provision exists that requires the informed consent of the individual</p>	No remediation is required.	

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	<p>Person-Centered Service Plan policy II.D.3.e During the meeting, the MCO Care Coordinator shall review the PII and provide education and explore the following: i. service options that will assist the participant in progress toward established goals,</p> <p>ii. identified care gaps, including assessing the participant’s understanding of risks and consequences if gaps remain.</p> <p>iii. The MCO Care Coordinator shall, in instances where a participant’s preferences may put him or her at health or safety risk, verify, to the best of their ability, that the participant demonstrates understanding of risk, strategies to mitigate risks, consequences, and shall make appropriate referrals to address risks.</p> <p>iv. restrictions to the participant’s preferences, as stated in the PII or verbally,</p> <p>v. additional community and social supports available to the</p>			

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	<p>participant, that may not be furnished directly by the MCO.</p> <p>vi. Participants may use the assistance of non-paid supports, and shall be encouraged to engage with non-paid supports when completing the PII.</p> <p>f) Person-Centered Service Plan policy II.D.3.f. PII components shall be documented within the Person-Centered Service Plan document.</p> <p>Silent</p>			
(8) Include an assurance that interventions and supports will cause no harm to the individual.	<p>Person-Centered Service Plan I.A.3. The Person-Centered Service Plan and associated process shall be the document of record demonstrating compliance with 42 CFR § 441.301 and the requirements found within the 1915 (c) HCBS waivers.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 Person-Centered Service Planning. B. The CONTRACTOR shall comply with applicable State and Federal rules (42 CFR. §, 441.301(c) and K.A.R. 30-63-1 Article 63) when developing the PCSP and associated assessments.</p>	[Complaint] through the Person-Centered Service Plan policy and KanCare contract.	No remediation is required.	

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Waivers Affected	FE, IDD, PD, TA, TBI			
	Silent			

Boarding Care Home

Boarding Care Home: HCBS services are not provided in Boarding Care Homes. Therefore, this is not a HCBS setting and the Final Rule would not apply.

Home Plus

42 CFR 441.301 c Final Rule	Home Plus K.S.A./K.A.R.	Gap	Remediation Strategy	Timeline
Waivers Affected	FE, IDD, PD, TA, TBI			
(4)Home and Community-Based Settings. Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan: (i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek	<p>K.A.R. 26-39-103 Resident rights in adult care homes (g) Management of financial affairs. The administrator or operator shall ensure that each resident is afforded the right to manage personal financial affairs and is not required to deposit personal funds with the adult care home.</p> <p>K.A.R. 26-39-103 Resident rights in adult care homes (k) Work. (1) The administrator or operator shall ensure that each resident is afforded the right to refuse to perform services for the adult care home. (2) A resident may perform services for the</p>	<p>[Silent] K.A.R. 26-39-103(g) No provision exists within the regulation that requires the setting be integrated within the community, nor is there a provision requiring that that setting support the full access of the individual receiving HCBS services to the same degree of an individual not receiving Medicaid HCBS services.</p> <p>[Silent] K.A.R. 26-39-103 (k) The regulation only refers to work assignments within the home itself. The gap exists between the CFR's mention of work outside of the home in the community. The regulation makes no reference to residents being allowed access to work within the community or the opportunity to seek work outside of the home environment. (g) This regulation</p>	<p>K.A.R. 26-39-103(g) Add language that references the individual's right to manage all personal effectives and resources. Add language that requires the setting is integrated in the community and support the full access of the individual to the greater community. Add language requiring that the degree of access be equal to those not receiving Medicaid HCBS.</p> <p>K.A.R. 26-39-103 (k) Add Language to reference the member's right to seek, access, and engage in competitive</p>	<p>K.A.R. Public Comment Period: 12/1/2019</p> <p>Legislative Cycle 1/1/2020- 6/1/2020</p> <p>Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)</p>

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<p>employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.</p>	<p>adult care home, if the resident wishes and if all of the following conditions are met: (A) The administrator or operator, or the designee, has documented the resident's need or desire for work in the plan of care or negotiated service agreement. (B) The plan of care or negotiated service agreement specifies the nature of the services performed and whether the services are voluntary or paid. (C) The resident or resident's legal representative has signed a written agreement consenting to the work arrangement described in the plan of care or negotiated service agreement.</p> <p>(g) Management of financial affairs. The administrator or operator shall ensure that each resident is afforded the right to manage personal financial affairs and is not required to deposit personal funds with the adult care home.</p> <p>K.A.R. 28-39-147 All regulations in K.A.R chapter 28 section 39 were revoked in 2009 and do not apply.</p>	<p>insures the resident can manage personal affairs however it does not mention any other personal effects of the member. No provision exists within the regulation that requires the setting be integrated within the community, nor is there a provision requiring that that setting support the full access of the individual receiving HCBS services to the same degree of an individual not receiving Medicaid HCBS services</p>	<p>employment outside of the home environment. (g) Add language that references the individual's right to manage all personal effects and resources. Add language that requires the setting is integrated in the community and support the full access of the individual to the greater community. Add language requiring that the degree of access be equal to those not receiving Medicaid HCBS.</p>	

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(ii) The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	Silent	[Silent] No provision exists requiring the documentation of setting options. Additionally, no provision exists requiring the setting be selected by the individual from settings including non-disability specific settings. Nor is there a provision requiring the option for a private unit in a residential setting.	Add language requiring that the setting be selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	KARK.A.R. Public Comment Period: 12/1/2019 Legislative Cycle 1/1/2020- 6/1/2020 Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)
(iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	K.A.R. 26-39-103 Resident rights in adult care homes. (b) (2) The administrator or operator shall ensure that each resident is afforded the right to be free from interfere coercion, discrimination, or reprisal from adult care home staff in exercising the resident's rights. K.A.R. 26-42-101 Administration. (d) Resident rights. Each administrator or	[Compliant] K.A.R. 26-39-103 (b)(2) [Compliant] K.A.R. 26-42-101(d)(1) [Conflict] K.A.R. 26-42-200 (b) does not include a provision that expressly illustrates the individuals receiving HCBS, freedom from restraint as it states that they may be required as treatment by the resident's clinical symptoms. in 28-39-430	Add language that reflects the individuals receiving HCBS have the right to be free from restraint and insures that any restraint of individuals must be consistent with 42 CFR §441.301c (F) Any modification of the additional conditions, under 42 CFR § 441.301(c) (4) (vi) (A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The	KARK.A.R. Public Comment Period: 12/1/2019 Legislative Cycle 1/1/2020- 6/1/2020 Effective Date: 5/31/2020 (dependent upon when the

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Waivers Affected	FE, IDD, PD, TA, TBI			
	<p>operator shall ensure the development and implementation of written policies and procedures that incorporate the principles of individuality, autonomy, dignity, choice, privacy and a home environment for each resident. The following provisions shall be included in the policies and procedures (1) The recognition of each resident's rights, responsibilities, needs, and preferences.</p> <p>K.A.R. 26-42-200 Resident criteria. (b) Each administrator or operator shall ensure that any resident whose clinical condition requires the use of physical restraints is not admitted or retained.</p> <p>K.A.R.-28-39-148 All regulations in K.A.R chapter 28 section 39 were revoked in 2009 and do not apply.</p> <p>K.A.R. 28-39-430 All regulations in K.A.R chapter 28 section 39 were revoked in 2009 and do not apply.</p>		<p>following requirements must be documented in the person-centered service plan:</p>	<p>regulation is signed by the Governor)</p>

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<p>(iv) Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.</p>	<p>K.A.R. 26-42-101 Administration (d) Resident rights. Each administrator or operator shall ensure the development and implementation of written policies and procedures that incorporate the principles of individuality, autonomy, dignity, choice, privacy and a home environment for each resident. The following provisions shall be included in the policies and procedures (1) The recognition of each resident's rights, responsibilities, needs, and preferences.</p> <p>K.A.R. 26-39-103 Resident rights in adult care homes. (a) Protection and promotion of resident rights. Each administrator or operator shall ensure the protection and promotion of the rights of each resident as set forth in this regulation. Each resident shall have a right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the adult care home. (b) Exercise of rights. (1) The administrator or operator shall ensure that each resident is afforded the right to exercise the resident's rights as a resident of the adult care home and as a citizen. (2) The administrator or operator shall ensure that each resident is afforded the right to be free from interference, coercion, discrimination, or reprisal from adult care home staff in exercising the</p>	<p>[Silent] K.A.R. 26-42-101 (d) and (d)(1) No provision exists that includes the definition or, practice of regimented activities within the HCBS setting of daily activities, physical environment, and social interaction.</p> <p>[Silent] K.A.R. 26-39-103 (a-m) The regulation does not recognize the individual's right to choose with whom they interact.</p>	<p>Add language that defines regimented activities. Add language that requires the setting optimize but not regiment individual independence in life making choices including daily activities, physical environment and with whom to interact without regimentation of these activities.</p>	<p>K.A.R. Public Comment Period: 12/1/2019</p> <p>Legislative Cycle 1/1/2020- 6/1/2020</p> <p>Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)</p>

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	<p>resident’s rights. (3) If a resident is adjudged incompetent under the laws of the state of Kansas, the resident’s legal representative shall have the power to exercise rights on behalf of the resident. (4) In the case of a resident who has executed a durable power of attorney for health care decisions, the agent may exercise the rights of the resident to the extent provided by K.S.A. 58-625 et seq. and amendments thereto. (c) Notice of rights and services. (1) Before admission, the administrator or operator shall ensure that each resident or the resident’s legal representative is informed, both orally and in writing, of the following in a language the resident or the resident’s legal representative understands: (A) The rights of the resident;</p> <p>(B) the rules governing resident conduct and responsibility;</p> <p>(C) the current rate for the level of care and services to be provided; and (D) if applicable, any additional fees that will be charged for optional services. (2) The administrator or operator shall ensure that each resident or the resident’s legal representative is notified in writing of any changes in</p>			

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	<p>charges or services that occur after admission and at least 30 days before the effective date of the change. The changes shall not take place until notice is given, unless the change is due to a change in level of care. (d) Inspection of records. (1) The administrator or operator shall ensure that each resident or resident’s legal representative is afforded the right to inspect records pertaining to the resident. The administrator or operator, or the designee, shall provide a photocopy of the resident’s record or requested sections of the resident’s record to each resident or resident’s legal representative within two working days of the request. If a fee is charged for the copy, the fee shall be reasonable and not exceed actual cost, including staff time. (2) The administrator or operator shall ensure access to each resident’s records for inspection and photocopying by any representative of the department. (e) Informed of health status. The administrator or operator shall ensure that each resident and the resident’s legal representative are afforded the right to be fully informed of the resident’s total health status, including the resident’s medical condition. (f) Free choice. The administrator or operator</p>			

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	<p>shall ensure that each resident, or resident’s legal representative on behalf of the resident, is afforded the right to perform the following: (1) Choose a personal attending physician; (2) participate in the development of an individual care plan or negotiated service agreement;</p> <p>(3) refuse treatment; (4) refuse to participate in experimental research; and (5) choose the pharmacy where prescribed medications are purchased. If the adult care home uses a unit-dose or similar medication distribution system, the resident shall have the right to choose among pharmacies that offer or are willing to offer the same or a compatible system. (g) Management of financial affairs. The administrator or operator shall ensure that each resident is afforded the right to manage personal financial affairs and is not required to deposit personal funds with the adult care home. (h) Notification of changes. (1) The administrator or operator shall ensure that designated facility staff inform the resident, consult with the resident’s physician, and notify the resident’s legal representative or designated family</p>			

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	<p>member, if known, upon occurrence of any of the following: (A) An accident involving the resident that results in injury and has the potential for requiring</p> <p>a physician’s intervention; (B) a significant change in the resident’s physical, mental, or psychosocial status; (C) a need to alter treatment significantly; or (D) a decision to transfer or discharge the resident from the adult care home. (2) The administrator or operator shall ensure</p> <p>that a designated staff member informs the resident, the resident’s legal representative, or authorized family members whenever the designated staff member learns that the resident will have a change in room or roommate assignment. (i) Privacy and confidentiality. The administrator or operator shall ensure that each resident is</p> <p>afforded the right to personal privacy and confidentiality</p> <p>of personal and clinical records. (1) The administrator or operator shall ensure that each resident is provided privacy during medical and nursing treatment, written and telephone communications, personal care, visits, and meetings of family and resident groups. (2) The administrator or operator shall ensure that the personal</p>			

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	<p>and clinical records of the resident are maintained in a confidential manner. (3) The administrator or operator shall ensure that a release signed by the resident or the resident’s legal representative is obtained before records</p> <p>are released to anyone outside the adult care home, except in the case of transfer to another health care institution or as required by law. (j) Grievances. The administrator or operator shall ensure that each resident is afforded the</p> <p>right to the following: (1) Voice grievances with respect to treatment or care that was or was not furnished; (2) be free from discrimination or reprisal for voicing the grievances; and (3) receive prompt efforts by the administrator</p> <p>or operator, or the designee, to resolve any grievances that the resident could have, including any grievance with respect to the behavior of other residents. (k) Work.</p> <p>(1) The administrator or operator shall ensure that each resident is afforded the right to refuse to perform services for the adult care home. (2) A resident may perform services for the adult care home, if the resident wishes and if all of the following conditions are met: (A) The</p>			

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	<p>administrator or operator, or the designee, has documented the resident’s need or desire for work in the plan of care or negotiated service agreement. (B) The plan of care or negotiated service agreement specifies the nature of the services performed and whether the services are voluntary or paid. (C) The resident or resident’s legal representative has signed a written agreement consenting</p> <p>to the work arrangement described in the plan of care or negotiated service agreement. (l)Mail. The administrator or operator shall ensure that each resident is afforded the right to privacy in written communications, including the</p> <p>right to the following: (1) Have unopened mail sent and received promptly; and (2) have access to stationery, postage, and writing implements at the resident’s own expense. (m) Access and visitation rights. (1) The administrator or operator shall ensure the provision of immediate access to any resident by the following:</p> <p>(A) Any representative of the secretary of the Kansas department on aging; (B) the resident’s attending medical care provider; (C) the state long-term care ombudsman;</p>			

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	<p>(D) any representative of the secretary of the Kansas department of social and rehabilitation services;</p> <p>(E) immediate family or other relatives of the</p> <p>resident; and (F) others who are visiting with the consent of</p> <p>the resident subject to reasonable restrictions. (2) The administrator or operator shall ensure that each resident is afforded the right to deny or withdraw visitation consent for any person at any time</p> <p>-(m) [Applies to Adult Day Care, Assisted Living, Home Plus, and Boarding Care Home Settings] (m) Access and visitation rights</p>			

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(v) Facilitates individual choice regarding services and supports, and who provides them.	<p>AU, FE, PD, TA, TBI Person-Centered Service Plan policy II.D.2.a) and b) D. Participant Choice Form a) The participant choice form is a standard form that educates participants on choice of services, providers, community-based vs. institutional alternatives, and self-direction vs. agency-direction models of service delivery. b) MCOs, or their designee, shall provide the form to participants or their legal representatives prior to the Person-Centered Service Plan meeting.</p> <p>K.A.R. 28-39-428 All regulations in K.A.R chapter 28 section 39 were revoked in 2009 and do not apply.</p>	[Compliant] AU, FE, PD, TA, TBI Person-Centered Service Plan policy II.D.2.a) and b)	No remediation is required.	
(vi) In a provider-owned or controlled residential setting, in addition to the qualities at § 441.301(c)(4)(i) through (v), the following additional conditions must be met: (A) The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord	<p>K.A.R. 26-39-102 Admission, transfer and discharge rights of residents in adult care homes. (d) The administrator or operator of each adult care home shall ensure that each resident is permitted to remain in the adult care home and is not transferred or discharged from the adult care home unless one of the following conditions is met: (1) The transfer or discharge is necessary for the resident's welfare, and the resident's needs cannot be met in the current adult care home. (2) The safety of other individuals in the adult care home is endangered. (3) The health of other individuals in the adult care home is endangered. (4) The resident has failed, after reasonable and appropriate notice, to pay the rates and charges imposed by</p>	<p>[Non-compliant] K.A.R. 26-39-102(d)(1-5) does not contain a provision exists in the regulation requiring a leasing or residency agreement establishing a minimum of equality in regards to protections from eviction under state, county, or city entities for HCBS participants.</p> <p>K.A.R. 26-39-102(e)(1) does not contain a provision requiring a leasing or residency agreement establishing a minimum of equality in regards to protections from eviction under state, county, or city entities for HCBS participants.</p> <p>K.A.R. 26-39-102 (g)(1-5) does not contain a provision requiring a leasing or residency agreement establishing a minimum of equality in regards to protections from eviction under state, county, or city entities for HCBS participants.</p>	Add language that reflects the unit or dwelling be a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	<p>K.A.R. Public Comment Period: 12/1/2019</p> <p>Legislative Cycle 1/1/2020- 6/1/2020</p> <p>Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)</p>

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<p>tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.(vi) In a provider-owned or controlled residential setting, in addition to the qualities at § 441.301(c)(4)(i) through (v), the following additional conditions must be met:</p>	<p>the adult care home. (5) The adult care home ceases to operate.</p> <p>K.A.R. 26-39-102 Admission, transfer and discharge rights of residents in adult care homes. (d) (1) (2) (3) (4) (5)(e) (1) Before a resident is transferred or discharged involuntarily, the administrator or operator, or the designee, shall perform the following:</p> <p>(1) Notify the resident, the resident’s legal representative, and if known, a designated family member of the transfer or discharge and the reasons;</p> <p>K.A.R. 26-39-102 Admission, transfer and discharge rights of residents in adult care homes. (g) Each written transfer or discharge notice shall include the following: (1) The reason for the transfer or discharge; (2) the effective date of the transfer or discharge; (3) the address and telephone number of the complaint program of the Kansas department on aging where a complaint related to involuntary transfer or discharge can be registered; (4) the address and telephone number of the state long-term care ombudsman; and (5) for residents who have developmental disabilities or who are mentally ill, the address and telephone number of the Kansas advocacy and protection organization.</p>			

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	(1)(2) (3) (4) (5) [Applies to Adult Day Care, Assisted Living, and Home Plus Settings]			
(B) Each individual has privacy in their sleeping or living unit:(A) The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	<p>K.A.R. 26-42-101(d) (5) the recognition of each resident's personal space as private and the sharing of a bedroom only when agreed to by the resident;</p> <p>K.A.R. 26-42-202 (b) The negotiated service agreement shall promote the dignity, privacy, choice, individuality, and autonomy of the resident.</p> <p>K.A.R. 28-39-428 All regulations in K.A.R chapter 28 section 39 were revoked in 2009 and do not apply.</p>	<p>[Partial Compliance] K.A.R. 26-42-101(d)(5) recognizes lacks any provision that specifically address the individual's right to privacy in their sleeping or living unit.</p> <p>[Non-compliant] K.A.R. 26-42-202(b) No provision exists in the regulation requiring a leasing or residency agreement establishing a minimum of equality in regards to protections from eviction under state, county, or city entities for HCBS participants.</p>	<p>Add language that specifically addresses the individual's right to privacy in their sleeping or living unit. Add language that reflects the unit or dwelling be a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.</p>	<p>K.A.R. Public Comment Period: 12/1/2019</p> <p>Legislative Cycle 1/1/2020- 6/1/2020</p> <p>Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)</p>

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(1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.(B) Each individual has privacy in their sleeping or living unit:	<p>K.A.R. 26-42-101 (5) the recognition of each resident's personal space as private and the sharing of a bedroom only when agreed to by the resident;</p> <p>K.A.R. 28-39-428 All regulations in K.A.R chapter 28 section 39 were revoked in 2009 and do not apply.</p>	[Partial Compliance] K.A.R. 26-42-101 lacks a provision that specifically address the individual's right to privacy in their sleeping or living unit as well as ensuring units have lockable entrance doors.	Add language requiring Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors. Add language that specifically addresses the individual's right to privacy in their sleeping or living unit.	<p>K.A.R. Public Comment Period: 12/1/2019</p> <p>Legislative Cycle 1/1/2020- 6/1/2020</p> <p>Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)</p>
(2) Individuals sharing units have a choice of roommates in that setting.(1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	K.A.R. 26-42-101 (d) (5) the recognition of each resident's personal space as private and the sharing of a bedroom only when agreed to by the resident;	[Partial Compliance] K.A.R. 26-42-101 (d) (5) lacks a provision ensuring units have lockable entrance doors.	Add language requiring Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	<p>K.A.R. Public Comment Period: 12/1/2019</p> <p>Legislative Cycle 1/1/2020- 6/1/2020</p> <p>Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)</p>
(3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.(2) Individuals sharing units have a choice of roommates in that setting.	K.A.R. 26-42-101 (d) Resident rights. Each administrator or operator shall ensure the development and implementation of written policies and procedures that incorporate the principles of individuality, autonomy, dignity, choice, privacy, and a home environment for each resident. The following provisions shall be included in the policies and procedures: (4) furnishing and decorating each resident's personal space; (5) the recognition of each resident's personal space as private and	<p>[Partial Compliance] K.A.R. 26-42-101(d)(4-5) lacks a provision to ensure that individuals can furnish and decorate their sleeping units.</p> <p>[Compliant] K.A.R. 26-39-103(o)</p>	Add language that ensures that individuals receiving HCBS in this setting have the freedom furnish and decorate their sleeping or living units within the lease or other agreement.	<p>K.A.R. Public Comment Period: 12/1/2019</p> <p>Legislative Cycle 1/1/2020- 6/1/2020</p> <p>Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)</p>

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	<p>the sharing of a bedroom only when agreed to by the resident;</p> <p>K.A.R. 26-39-103 (o) Personal property. The administrator or operator shall ensure that each resident is afforded the right to retain and use personal possessions including furnishings and appropriate clothing as space permits, unless doing so would infringe upon the rights or health and safety of other residents.</p> <p>K.A.R. 28-39-148 All regulations in K.A.R chapter 28 section 39 were revoked in 2009 and do not apply.</p>			
<p>(C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.(3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.</p>	<p>K.A.R. 26-42-203 General Services (a) Range of services. The administrator or operator of each home plus shall ensure the provision or coordination of the range of services specified in each resident's negotiated service agreement. The range of services may include the following: (5) planned group and individual activities that meet the needs and interests of each resident; and (6) other services necessary to support the health and safety of each resident.</p> <p>K.A.R. 26-42-101 (d) Resident rights. Each administrator or operator shall ensure the development and implementation of written policies and procedures that incorporate the principles of individuality, autonomy, dignity, choice, privacy, and a home environment for each resident. The</p>	<p>[Silent] K.A.R. 26-42-203 lacks a provision ensuring individuals have the freedom and support to control their own schedules and have access to food at all times.</p> <p>[Partial Compliance] K.A.R. 26-42-101 (d) does not ensure that individuals can furnish and decorate their sleeping units.</p>	<p>Add language that reflects the final rule stating that Individuals have the freedom and support to control their own schedules and activities and have access to food at any time. Add language that ensures that individuals receiving HCBS in this setting have the freedom furnish and decorate their sleeping or living units within the lease or other agreement.</p>	<p>K.A.R. Public Comment Period: 12/1/2019</p> <p>Legislative Cycle 1/1/2020- 6/1/2020</p> <p>Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)</p>

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	<p>following provisions shall be included in the policies and procedures: (4) furnishing and decorating each resident's personal space;</p> <p>K.A.R. 28-39-148 All regulations in K.A.R chapter 28 section 39 were revoked in 2009 and do not apply.</p>			
(D) Individuals are able to have visitors of their choosing at any time.	<p>K.A.R. 26-39-103 Resident rights in adult care homes. (m) (1) The administrator or operator shall ensure the provision of immediate access to any resident by the following: (E,) immediate family or other relatives of the resident; and (F) others who are visiting with the consent of the resident subject to reasonable restrictions.</p> <p>K.A.R. 28-39-148 All regulations in K.A.R chapter 28 section 39 were revoked in 2009 and do not apply.</p>	[Conflict] K.A.R. 26-39-103 (m) (1) (E-, F) restricts people the resident can have immediate access to as relatives or family only and places restrictions on visitation of all others visiting with the resident.	Remove restrictions and add language that insures HCBS members in this setting can communicate with visitors of their choosing at any time.	<p>K.A.R. Public Comment Period: 12/1/2019</p> <p>Legislative Cycle 1/1/2020- 6/1/2020</p> <p>Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)</p>
(E) The setting is physically accessible to the individual.	<p>[Silent]</p> <p>K.A.R. 28-39-289 All regulations in K.A.R chapter 28 section 39 were revoked in 2009 and do not apply.</p> <p>K.A.R. 28-39-437 All regulations in K.A.R chapter 28 section 39 were revoked in 2009 and do not apply.</p>	[Silent]	Add language enduring the HCBS setting is physically accessible to the individua.	<p>K.A.R. Public Comment Period: 12/1/2019</p> <p>Legislative Cycle 1/1/2020- 6/1/2020</p> <p>Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)</p>

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<p>(F) Any modification of the additional conditions, under § 441.301(c) (4) (vi) (A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:(E) The setting is physically accessible to the individual.</p>	<p>Person-Centered Service Plan I.A.5. All participants of a 1915(c) HCBS waiver shall have a Person-Centered Service Plan completed by their Managed Care Organization.</p> <p>Person-Centered Service Plan policy I.B.2 Additional Person-Centered Service Plan meetings may be necessary due to changes in condition or circumstance that require updates to the participant's plan, which would impact the scope, amount or duration of services included in the Person-Centered Service Plan. The following changes in condition or circumstance necessitate a Person-Centered Service Plan meeting to ensure the plan meets the participant's wishes and needs.</p> <p>a) Change in functional ability to perform two or more Activities of Daily Living (ADLs) or three or more Instrumental Activities of Daily Living (IADLs) compared to the most recently assessed functional ability;</p> <p>b) Change in behaviors that may lead to loss of foster placement or removal from the home;</p> <p>c) Significant change in informal support availability, including death or long-term absence of a primary caregiver, and/or any participant identified changes in informal caregiver availability that results in</p>	<p>[Complaint] through the Person-Centered Service Plan policy and KanCare contract.</p>	<p>No remediation is required.</p>	

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	<p>persistent unmet needs that are not addressed in the most recently developed Person-Centered Service Plan;</p> <p>d) Post-transition from any alternate setting of care (i.e.: state hospital, nursing home, etc.), when the participant was not residing in a community-based setting for thirty days or greater;</p> <p>e) Upon the request of any waiver participant, guardian or legal representative;</p> <p>f) Any health and/or safety concern;</p> <p>g) Any change in needs for an HCBS recipient not listed above.</p>			

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	<p>KanCare 2.0 RFP Specifications EVT0005464 5.4.2. Health Screening, Health Risk Assessments, and Needs Assessments. F.3.b. A reassessment of the Member's needs will take place within three (3) calendar days of discovery or notice of significant change in condition or needs. The Person-centered Service Plan (PCSP) will be dictated by State policy or HCBS Waiver, whichever is more restrictive, for HCBS Members. The reassessment can be an update to existing information in the HRA or needs assessment or a new assessment. The PCSP shall be updated to include any new required goals, interventions, or service authorizations for the Member and shall be signed by the Member, his or her guardian, Providers and other relevant parties in accordance with PCSP requirements set forth in Section 5.4.4 or as dictated by State policy for the PCSP or the HCBS Waiver.</p>			
(1) Identify a specific and individualized assessed need.(F) Any modification of the additional conditions, under § 441.301(c) (4) (vi) (A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be	Person-Centered Service Plan I.A.5. All participants of a 1915(c) HCBS waiver shall have a Person-Centered Service Plan completed by their Managed Care Organization.	[Complaint] through the Person-Centered Service Plan policy and KanCare contract.	No remediation is required.	

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documented in the person-centered service plan:	KanCare 2.0 RFP Specifications EVT0005464 5.4.2. Health Screening, Health Risk Assessments, and Needs Assessments. F.3.b. A reassessment of the Member's needs will take place within three (3) calendar days of discovery or notice of significant change in condition or needs. The Person-centered Service Plan (PCSP) will be dictated by State policy or HCBS Waiver, whichever is more restrictive, for HCBS Members. The reassessment can be an update to existing information in the HRA or needs assessment or a new assessment. The PCSP shall be updated to include any new required goals, interventions, or service authorizations for the Member and shall be signed by the Member, his or her guardian, Providers and other relevant parties in accordance with PCSP requirements set forth in Section 5.4.4 or as dictated by State policy for the PCSP or the HCBS Waiver.			
(2) Document the positive interventions and supports used prior to any modifications to the person-centered service plan.(1) Identify a specific and individualized assessed need.	<p>Person-Centered Service Plan I.A.3. The Person-Centered Service Plan and associated process shall be the document of record demonstrating compliance with 42 CFR § 441.301 and the requirements found within the 1915 (c) HCBS waivers.</p> <p>Person-Centered Service Plan I.A.5. All participants of a 1915(c) HCBS waiver shall have a Person-Centered Service</p>	[Complaint] through the Person-Centered Service Plan policy and KanCare contract.	No remediation is required.	

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	<p>Plan completed by their Managed Care Organization.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 Person-Centered Service Planning. B. The CONTRACTOR shall comply with applicable State and Federal rules (42 CFR. §, 441.301(c) and K.A.R. 30-63-1 Article 63) when developing the PCSP and associated assessments.</p> <p>[Silent] No provision exists requiring the positive interventions and supports be documented prior to any modifications to the person-centered plan.</p>			
<p>(3) Document less intrusive methods of meeting the need that have been tried but did not work.(2) Document the positive interventions and supports used prior to any modifications to the person-centered service plan.</p>	<p>Person-Centered Service Plan I.A.3. The Person-Centered Service Plan and associated process shall be the document of record demonstrating compliance with 42 CFR § 441.301 and the requirements found within the 1915 (c) HCBS waivers.</p> <p>Person-Centered Service Plan I.A.5. All participants of a 1915(c) HCBS waiver shall have a Person-Centered Service Plan completed by their Managed Care Organization.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 Person-Centered Service Planning. B. The CONTRACTOR shall comply with applicable State and</p>	<p>[Complaint] through the Person-Centered Service Plan policy and KanCare contract.</p>	<p>No remediation is required.</p>	

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	<p>Federal rules (42 CFR. §, 441.301(c) and K.A.R. 30-63-1 Article 63) when developing the PCSP and associated assessments.</p> <p>[Silent] No provision exists within the regulation that requires the documentation off less intrusive methods of meeting the need that have been tried before be included within the person-centered service plan [Silent] No provision exists requiring the positive interventions and supports be documented prior to a modifications to the person-centered plan.</p>			
<p>(4) Include a clear description of the condition that is directly proportionate to the specific assessed need.(3) Document less intrusive methods of meeting the need that have been tried but did not work.</p>	<p>Person-Centered Service Plan I.A.3. The Person-Centered Service Plan and associated process shall be the document of record demonstrating compliance with 42 CFR § 441.301 and the requirements found within the 1915 (c) HCBS waivers.</p> <p>Person-Centered Service Plan I.A.5. All participants of a 1915(c) HCBS waiver shall have a Person-Centered Service Plan completed by their Managed Care Organization.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 Person-Centered Service Planning. B. The CONTRACTOR shall comply with applicable State and Federal rules (42 CFR. §, 441.301(c) and</p>	<p>[Complaint] through the Person-Centered Service Plan policy and KanCare contract.</p>	<p>No remediation is required.</p>	

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Waivers Affected	FE, IDD, PD, TA, TBI			
	<p>K.A.R. 30-63-1 Article 63) when developing the PCSP and associated assessments.</p> <p>[Silent] No provision exists within the regulation that requires the documentation of a description of the condition directly proportionate to the specific assessed need.</p>			
<p>(5) Include regular collection and review of data to measure the ongoing effectiveness of the modification.(4) Include a clear description of the condition that is directly proportionate to the specific assessed need.</p>	<p>Person-Centered Service Plan I.A.3. The Person-Centered Service Plan and associated process shall be the document of record demonstrating compliance with 42 CFR § 441.301 and the requirements found within the 1915 (c) HCBS waivers.</p> <p>Person-Centered Service Plan I.A.5. All participants of a 1915(c) HCBS waiver shall have a Person-Centered Service Plan completed by their Managed Care Organization.</p> <p>Person-Centered Service Plan policy II.M.1 Once MCO Care Coordinators complete the Person-Centered Service Plan process they shall monitor delivery of the plan, including conducting a six-month face-to-face visit with the participant or participant's designated legal representative.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 Person-Centered Service Planning. B. The CONTRACTOR</p>	<p>[Complaint] through the Person-Centered Service Plan policy and KanCare contract.</p>	<p>No remediation is required.</p>	

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	shall comply with applicable State and Federal rules (42 CFR. §, 441.301(c) and K.A.R. 30-63-1 Article 63) when developing the PCSP and associated assessments.			
(6) Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.(5) Include regular collection and review of data to measure the ongoing effectiveness of the modification.	<p>Person-Centered Service Plan policy II.M.1 Once MCO Care Coordinators complete the Person-Centered Service Plan process they shall monitor delivery of the plan, including conducting a six-month face-to-face visit with the participant or participant's designated legal representative.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 Person-Centered Service Planning. B. The CONTRACTOR shall comply with applicable State and Federal rules (42 CFR. §, 441.301(c) and K.A.R. 30-63-1 Article 63) when developing the PCSP and associated assessments.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 Person-Centered Service Planning. D. The CONTRACTOR(S) shall ensure that the PCSP is reviewed during every contact with the Member and updated at least annually or more often based on changes to Member's needs.</p>	[Complaint] through the Person-Centered Service Plan policy and KanCare contract.	No remediation is required.	

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	<p>KanCare 2.0 RFP Specifications EVT0005464 5.4.5 Service Coordination Stratification Levels and Contact Schedules G. Service Coordination contacts: The CONTRACTOR(S) shall make contacts (telephonic or face-to-face) with the Member based on the Members needs and shall describe how it will comply with the following minimum contact schedule based on the Member's assigned Service Coordination stratification level. At a minimum, each Member receiving Service Coordination will receive an in person contact by the CONTRACTOR(S) staff or a Provider within their network) during either a Service Coordination touch point meeting or other activity: 3. Level III – Chronic Long-Term Needs:</p> <p style="padding-left: 40px;">a. At a minimum monthly telephonic contact and with a minimum of a face-to-face visit every three (3) months.</p>			
(7) Include the informed consent of the individual.(6) Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.	Person-Centered Service Plan policy I.A.4. No Person-Centered Service Plan shall be amended or otherwise changed without the participation of the individual and in compliance with 42 CFR § 441.301 and the 1915 (c) HCBS waivers.	[Complaint] through the Person-Centered Service Plan policy	No remediation is required.	

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	<p>Person-Centered Service Plan policy II.G.5. A participant or participant’s legal representative shall sign to acknowledge understanding and agreement or disagreement with the Person-Centered Service Plan whenever content adjustments are made that change the scope, amount or duration of services within the plan, including interim changes.</p> <p>Person-Centered Service Plan policy II.D.3.e During the meeting, the MCO Care Coordinator shall review the PII and provide education and explore the following: i. service options that will assist the participant in progress toward established goals,</p> <p>ii. identified care gaps, including assessing the participant’s understanding of risks and consequences if gaps remain.</p> <p>iii. The MCO Care Coordinator shall, in instances where a participant’s preferences may put him or her at health or safety risk, verify, to the best of their ability, that the participant demonstrates understanding of risk, strategies to mitigate risks, consequences, and</p>			

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	<p>shall make appropriate referrals to address risks.</p> <p>iv. restrictions to the participant's preferences, as stated in the PII or verbally,</p> <p>v. additional community and social supports available to the participant, that may not be furnished directly by the MCO.</p> <p>vi. Participants may use the assistance of non-paid supports and shall be encouraged to engage with non-paid supports when completing the PII.</p>			
<p>(8) Include an assurance that interventions and supports will cause no harm to the individual.(7) Include the informed consent of the individual.</p>	<p>Person-Centered Service Plan I.A.3. The Person-Centered Service Plan and associated process shall be the document of record demonstrating compliance with 42 CFR § 441.301 and the requirements found within the 1915 (c) HCBS waivers.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 Person-Centered Service Planning. B. The CONTRACTOR shall comply with applicable State and Federal rules (42 CFR. §, 441.301(c) and K.A.R. 30-63-1 Article 63) when developing the PCSP and associated assessments.</p>	<p>[Complaint] through the Person-Centered Service Plan policy and KanCare contract.</p>	<p>No remediation is required.</p>	

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	[Silent] No provision exists that requires an inclusion of assurance that no harm will come to the individual as a result of interventions and supports.			
(8) Include an assurance that interventions and supports will cause no harm to the individual.	Silent	[Silent] No provision exists that requires an inclusion of assurance that no harm will come to the individual as a result of interventions and supports.	Add language that provides assurance within the person-centered service plan, stating no harm will come to the individual as a result of interventions and supports listed within the plan.	<p>K.A.R. Public Comment Period: 12/1/2019</p> <p>Legislative Cycle 1/1/2020- 6/1/2020</p> <p>Effect Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)</p>

IDD Specific Services

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Waivers Affected	IDD			
(4) Home and Community-Based Settings. Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan: (i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	<p>K.S.A. 44-1136 (2) "Integrated setting" means with respect to an employment outcome, a setting typically found in the community in which applicants or eligible individuals interact with non-disabled individuals, other than non-disabled individuals who are providing services to those applicants or eligible individuals, to the same extent that non-disabled individuals in comparable positions interact with other persons. (b) It is hereby declared to be the policy of the state of Kansas that competitive and integrated employment shall be considered its first option when serving persons with disabilities who are of working age to obtain employment. This policy applies to programs and services that provide services and support to help obtain employment for persons with disabilities. All state agencies shall follow this policy and ensure that it is effectively implemented in their programs and services. Nothing in this section shall be construed to require any employer to give preference to hiring people with a disability.</p> <p>K.A.R. 30-63-21 Person-centered support planning; implementation. (a) The provider shall prepare a written person-centered support plan for each person served that shall meet these requirements: (2) contain a description of the person's preferred lifestyle, including describing the following: (A) In what type of setting the person wants to live; (C) what work or other valued activity the person wants to do; (E) in what social, leisure, religious, or other activities the person wants to participate</p> <p>K.A.R. 30-63-22 Individual rights and responsibilities. (a) Each provider shall at all times encourage and assist each person served to understand and exercise the person's</p>	<p>[Compliant] K.S.A. 44-1136</p> <p>[Compliant] K.A.R. 30-63-21 (a)</p> <p>[Compliant] K.A.R. 30-63-22 (a)</p> <p>[Compliant] K.A.R. 30-63-22 (b)(8-9)</p>	No remediation required.	

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Waivers Affected	IDD			
	<p>individual rights and to assume the responsibilities that accompany these rights.</p> <p>K.A.R. 30-63-22 Individual rights and responsibilities. (b) Each person served shall be guaranteed the same rights afforded to individuals without disabilities. These rights may be limited only by provisions of law or court order, including guardianship, conservatorship, power of attorney or other judicial determination. (8) being free from the inappropriate use of a physical or chemical restraint, medication, or isolation as punishment, for the convenience of a provider or agent, in conflict with a physician's orders or as a substitute for treatment, except when physical restraint is in furtherance of the health and safety of the person; (9) not being required to work without compensation, except when the person is living and being provided services outside of the home of a member of the person's family, and then only for the purposes of the upkeep of the person's own living space and of common living areas and grounds that the person shares with others;</p>			

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Waivers Affected	IDD			
<p>(ii) The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.</p>	<p>K.A.R. 30-63-21 Person-centered support planning; implementation. (a) (4) describe how opportunities of choice will be provided, including specifying means for the following: (A) Permitting the person to indicate the person's preferences among options presented to the person, by whatever communication methods that person may possess, including a description of the effective communication methods utilized by the person;</p>	<p>[Partial Compliance] K.A.R. 30-63-21(a)(4)(A) lacks a provision stating that the options offered include non-disability settings or private units in a residential setting.</p>	<p>Add regulation that insures the setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.</p>	<p>K.A.R. Public Comment Period: 12/1/2019</p> <p>Legislative Cycle 1/1/2020-6/1/2020</p> <p>Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)</p>

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Waivers Affected	IDD			
(iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	<p>K.A.R. 30-63-22 Individual rights and responsibilities. (a) Each provider shall at all times encourage and assist each person served to understand and exercise the person's individual rights and to assume the responsibilities that accompany these rights.</p> <p>K.A.R. 30-63-22 Individual rights and responsibilities. (b) Each person served shall be guaranteed the same rights afforded to individuals without disabilities. These rights may be limited only by provisions of law or court order, including guardianship, conservatorship, power of attorney or other Judicial determination. These rights shall include the following (1) Being free from physical or psychological abuse or neglect, and from financial exploitation; abuse or neglect, and from financial exploitation; (2) having control over the person's own financial resources; (3) being able to receive, purchase, have, and use the person's personal property; (4) actively and meaningfully making decisions affecting the person's life; (5) having privacy; (8) being free from the inappropriate use of a physical or chemical restraint, medication, or isolation as punishment, for the convenience of a provider or agent, in conflict with a physician's orders or as a substitute for treatment, except when physical restraint is in furtherance of the health and safety of the person; (9) not being required to work without compensation, except when the person is living and being provided services outside of the home of a member of the person's family, and then only for the purposes of the upkeep of the person's own living space and of common living areas and grounds that the person shares with others; (10) being treated with dignity and respect; (11) receiving due process; and (12) having access to the person's own records, including information about how the person's</p>	<p>[Conflict] K.A.R. 30-63-22(a) lacks language ensuring protection against coercion.</p> <p>[Silent] K.A.R. 30-63-22(b)(1-5, 8-12) there is no provision ensuring the individual in this setting has the right to be free from coercion. The provision implies the inclusion of restraint under specific circumstances and is in conflict with the final rule.</p>	<p>Add language stating that the restraint of individuals must be consistent with 42 CFR §441.301c (F). Any modification of the additional conditions, under 42 CFR §441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan: Additionally, add language ensuring the individual's right to be free from coercion.</p>	<p>K.A.R. Public Comment Period: 12/1/2019</p> <p>Legislative Cycle 1/1/2020-6/1/2020</p> <p>Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)</p>

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	funding is accessed and utilized and what services were billed for on the person’s behalf.			

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Waivers Affected	IDD			
<p>(iv) Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.</p>	<p>K.A.R. 30-63-21 Person-centered support planning; implementation. (a) The provider shall prepare a written person-centered support plan for each person served that shall meet these requirements: (2) contain a description of the person’s preferred lifestyle, including describing the following: (A) In what type of setting the person wants to live; (B) with whom the person wants to live; (C) what work or other valued activity the person wants to do; (D) with whom the person wants to socialize; and (E) in what social, leisure, religious, or other activities the person wants to participate;</p> <p>K.A.R. 30-63-21 Person-centered support planning; implementation. (a) The provider shall prepare a written person-centered support plan for each person served that shall meet these requirements: (3) list and describe the necessary activities, training, materials, equipment, assistive technology, and services that are needed to assist the person to achieve the person’s preferred lifestyle;</p> <p>K.A.R. 30-63-22 Person-centered support planning; implementation. (a) Each provider shall at all times encourage and assist each person served to understand and exercise the person’s individual rights and to assume the responsibilities that accompany these rights.</p> <p>K.A.R. 30-63-22 Person-centered support planning; implementation. (b)(4) actively and meaningfully making decisions affecting the person’s life; (6) being able to associate and communicate publicly or privately with any person or group of people of the person’s choice; (7) being able to practice the religion or faith of the person’s choice</p>	<p>[Compliant] K.A.R. 30-63-21 (a)(2)(A-E)</p> <p>[Compliant] K.A.R. 30-63-21 (a)(3)</p> <p>[Partial Compliance] K.A.R. 30-63-22(a)no provision exists ensuring activities are not regimented.</p> <p>[Partial Compliance] K.A.R. 30-63-22(b)(4,6,7) no provision exists ensuring activities are not regimented.</p>	<p>Add language to K.A.R. 30-63-22(a) ensuring that individuals receiving HCBS do not have their activities regimented. This negates the need to add language to K.A.R. 30-63-22(b)(4,6,7).</p>	<p>K.A.R. Public Comment Period: 12/1/2019</p> <p>Legislative Cycle 1/1/2020-6/1/2020</p> <p>Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)</p>

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Waivers Affected	IDD			
(v) Facilitates individual choice regarding services and supports, and who provides them.	<p>K.A.R. 30-63-21 Person-centered support planning; implementation. (a) The provider shall prepare a written person-centered support plan for each person served that shall meet these requirements: (2) contain a description of the person's preferred lifestyle, including describing the following: (A) In what type of setting the person wants to live; (B) with whom the person wants to live; (C) what work or other valued activity the person wants to do; (D) with whom the person wants to socialize; and (E) in what social, leisure, religious, or other activities the person wants to participate;</p> <p>K.A.R. 30-63-21 Person-centered support planning; implementation. (a) The provider shall prepare a written person-centered support plan for each person served that shall meet these requirements: (6) prioritize and structure the delivery of services toward the goal of achieving the person's preferred lifestyle;</p> <p>[Applies to IDD Specific Service, and Sheltered Employment settings]</p> <p>K.A.R. 30-64-26 Quality enhancement. (a) Each contracting CDDO shall ensure that each service provided by the CDDO or by any affiliate shall be: (1) provided as specified within, and in a manner that is responsive to, the person-centered support plan under which that service is being provided; (2) provided in a manner that offers opportunities of choice to the person being served; and (3) performed in a manner that ensures that all of the person's rights are observed and protected.</p>	<p>[Compliant] K.A.R. 30-64-26(a)(2)(A-E)</p> <p>[Compliant] K.A.R. 30-63-21(a)(6)</p> <p>[Compliant] K.A.R. 30-64-26 (a)(1-3)</p>	No remediation required.	

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<p>(vi) In a provider-owned or controlled residential setting, in addition to the qualities at § 441.301(c)(4)(i) through (v), the following additional conditions must be met: (A) The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.</p>	<p>K.A.R. 30-63-22 Individual rights and responsibilities. (b) Each person served shall be guaranteed the same rights afforded to individuals without disabilities. These rights may be limited only by provisions of law or court order, including guardianship, conservatorship, power of attorney or other judicial determination. These rights shall include the following: (1) Being free from physical or psychological abuse or neglect, and from financial exploitation; (2) having control over the person's own financial resources; (3) being able to receive, purchase, have, and use the person's personal property; (4) actively and meaningfully making decisions affecting the person's life; (5) having privacy; (6) being able to associate and communicate publicly or privately with any person or group of people of the person's choice; (7) being able to practice the religion or faith of the person's choice; (8) being free from the inappropriate use of a physical or chemical restraint, medication, or isolation as punishment, for the convenience of a provider or agent, in conflict with a physician's orders or as a substitute for treatment, except when physical restraint is in furtherance of the health and safety of the person; (9) not being required to work without compensation, except when the person is living and being provided services outside of the home of a member of the person's family, and then only for the purposes of the upkeep of the person's own living space and of common living areas and grounds that the person shares with others; (10) being treated with dignity and respect; (11) receiving due process; and (12) having access to the person's own records, including information about how the person's funding is accessed and utilized and what services were billed for on the person's behalf.</p>	<p>[Silent] No provision exists in the regulation requiring a leasing or residency agreement establishing a minimum of equality in regard to protections from eviction under state county or city entities for HCBS participants that is equal to those establishing the landlord tenant law and providing the equivalent protections against eviction. This provision is not applicable for day services.</p>	<p>Add language that reflects the unit or dwelling be a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.</p>	<p>K.A.R. Public Comment Period: 12/1/2019</p> <p>Legislative Cycle 1/1/2020-6/1/2020</p> <p>Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)</p>

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Waivers Affected	IDD			
(B) Each individual has privacy in their sleeping or living unit:	K.A.R. 30-63-22 Person-centered support planning; implementation. (a) Each provider shall at all times encourage and assist each person served to understand and exercise the person's individual rights and to assume the responsibilities that accompany these rights. (5) having privacy;	[Partial Compliance] K.A.R. 30-63-22(a)(5) lacks a provision to ensure privacy within each individual sleeping unit.	Add language that includes privacy in each individual sleeping or living unit.	K.A.R. Public Comment Period: 12/1/2019 Legislative Cycle 1/1/2020-6/1/2020 Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)
(1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	Silent	[Silent] No regulation exists ensuring that residents in these settings have units with doors lockable by the individual. This provision is not applicable for day services.	Add regulation that ensures HCBS members in this setting have units with entrance doors lockable by the individual, with only appropriate staff having keys to doors.	K.A.R. Public Comment Period: 12/1/2019 Legislative Cycle 1/1/2020-6/1/2020 Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)

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Waivers Affected	IDD			
(2) Individuals sharing units have a choice of roommates in that setting.	K.A.R. 30-63-21 (a) The provider shall prepare a written person-centered support plan for each person served that shall meet these requirements: (2) contain a description of the person's preferred lifestyle, including describing the following: (A) In what type of setting the person wants to live; (B) with whom the person wants to live;	[Not Compliant] K.A.R. 30-63-21 (a)(2)(A,B) is not specific regarding a choice of roommates within a specific setting.	Add language that insures HCBS members in this setting have a choice of roommate.	K.A.R. Public Comment Period: 12/1/2019 Legislative Cycle 1/1/2020-6/1/2020 Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)
(3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	K.A.R. 30-63-22 (a) Each provider shall at all times encourage and assist each person served to understand and exercise the person's individual rights and to assume the responsibilities that accompany these rights. (3) being able to receive, purchase, have, and use the person's personal property;	[Silent] K.A.R. 30-63-22 (a)(3) does not include a provision ensuring the individual's right to furnish and decorate their sleeping or living units in this setting. This provision is not applicable for day services.	Add regulation that insures HCBS members in this setting have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	K.A.R. Public Comment Period: 12/1/2019 Legislative Cycle 1/1/2020-6/1/2020 Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)

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(C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	<p>K.A.R. 30-63-21 (a) The provider shall prepare a written person-centered support plan for each person served that shall meet these requirements: (2) (E) in what social, leisure, religious, or other activities the person wants to participate;</p> <p>K.A.R. 30-63-21 (a) The provider shall prepare a written person-centered support plan for each person served that shall meet these requirements: (3) list and describe the necessary activities, training, materials, equipment, assistive technology, and services that are needed to assist the person to achieve the person's preferred lifestyle;</p>	<p>[Compliant] K.A.R. 30-63-21(a)(2)(E)</p> <p>[Compliant] K.A.R. 30-63-21(a)(3)</p> <p>[Silent] no provision exists within the regulation allowing access to food at anytime.</p>	Add Language to K.A.R. 30-63-23 ensuring HCBS participants have access to food at anytime.	
(D) Individuals are able to have visitors of their choosing at any time.	<p>K.A.R. 30-63-22 (a) Each provider shall at all times encourage and assist each person served to understand and exercise the person's individual rights and to assume the responsibilities that accompany these rights.</p> <p>(6) being able to associate and communicate publicly or privately with any person or group of people of the person's choice;</p>	[Partial Compliance] K.A.R. 30-63-22(a)(6) lacks a provision to ensure that HCBS members in this setting can communicate with visitors at any time.	Add language that ensures HCBS members in this setting can communicate with visitors of their choosing at any time.	<p>K.A.R. Public Comment Period: 12/1/2019</p> <p>Legislative Cycle 1/1/2020-6/1/2020</p> <p>Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)</p>

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(E) The setting is physically accessible to the individual.	K.A.R. 30-63-30 (a) A provider shall maintain each site in which services are provided to any person and that is owned, leased, or made available by contract to be operated by a provider, any employee or board member of a provider, or any entity owned or controlled by a provider, a provider's employee or a provider's board member, so that the site shall meet these requirements:(10) have appropriate assistive devices and any necessary structural modifications so that the facility meets the needs of persons with physical disabilities;	[Compliant] K.A.R. 30-63-30(a)(10)	No remediation required.	
(F) Any modification of the additional conditions, under § 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:	<p>Person-Centered Service Plan I.A.5. All participants of a 1915(c) HCBS waiver shall have a Person-Centered Service Plan completed by their Managed Care Organization.</p> <p>Person-Centered Service Plan policy I.B.2 Additional Person-Centered Service Plan meetings may be necessary due to changes in condition or circumstance that require updates to the participant's plan, which would impact the scope, amount or duration of services included in the Person-Centered Service Plan. The following changes in condition or circumstance necessitate a Person-Centered Service Plan meeting to ensure the plan meets the participant's wishes and needs.</p> <p>a) Change in functional ability to perform two or more Activities of Daily Living (ADLs) or three or more Instrumental Activities of Daily Living (IADLs) compared to the most recently assessed functional ability;</p>	[Complaint] through the Person-Centered Service Plan policy and KanCare contract.	No remediation is required.	

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	<p>b) Change in behaviors that may lead to loss of foster placement or removal from the home;</p> <p>c) Significant change in informal support availability, including death or long-term absence of a primary caregiver, and/or any participant identified changes in informal caregiver availability that results in persistent unmet needs that are not addressed in the most recently developed Person-Centered Service Plan;</p> <p>d) Post-transition from any alternate setting of care (i.e.: state hospital, nursing home, etc.), when the participant was not residing in a community-based setting for thirty days or greater;</p> <p>e) Upon the request of any waiver participant, guardian or legal representative;</p> <p>f) Any health and/or safety concern;</p> <p>g) Any change in needs for an HCBS recipient not listed above.</p>			

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	<p>KanCare 2.0 RFP Specifications EVT0005464 5.4.2. Health Screening, Health Risk Assessments, and Needs Assessments. F.3.b. A reassessment of the Member’s needs will take place within three (3) calendar days of discovery or notice of significant change in condition or needs. The Person-centered Service Plan (PCSP) will be dictated by State policy or HCBS Waiver, whichever is more restrictive, for HCBS Members. The reassessment can be an update to existing information in the HRA or needs assessment or a new assessment. The PCSP shall be updated to include any new required goals, interventions, or service authorizations for the Member and shall be signed by the Member, his or her guardian, Providers and other relevant parties in accordance with PCSP requirements set forth in Section 5.4.4 or as dictated by State policy for the PCSP or the HCBS Waiver.</p>			
(1) Identify a specific and individualized assessed need.	Person-Centered Service Plan I.A.5. All participants of a 1915(c) HCBS waiver shall have a Person-Centered Service Plan completed by their Managed Care Organization.	[Complaint] through the Person-Centered Service Plan policy and KanCare contract.	No remediation is required.	

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	<p>KanCare 2.0 RFP Specifications EVT0005464 5.4.2. Health Screening, Health Risk Assessments, and Needs Assessments. F.3.b. A reassessment of the Member's needs will take place within three (3) calendar days of discovery or notice of significant change in condition or needs. The Person-centered Service Plan (PCSP) will be dictated by State policy or HCBS Waiver, whichever is more restrictive, for HCBS Members. The reassessment can be an update to existing information in the HRA or needs assessment or a new assessment. The PCSP shall be updated to include any new required goals, interventions, or service authorizations for the Member and shall be signed by the Member, his or her guardian, Providers and other relevant parties in accordance with PCSP requirements set forth in Section 5.4.4 or as dictated by State policy for the PCSP or the HCBS Waiver.</p>			
<p>(2) Document the positive interventions and supports used prior to any modifications to the person-centered service plan.</p>	<p>Person-Centered Service Plan I.A.3. The Person-Centered Service Plan and associated process shall be the document of record demonstrating compliance with 42 CFR § 441.301 and the requirements found within the 1915 (c) HCBS waivers.</p> <p>Person-Centered Service Plan I.A.5. All participants of a 1915(c) HCBS waiver shall have a Person-Centered Service Plan completed by their Managed Care Organization.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 <u>Person-Centered Service Planning. B.</u> The CONTRACTOR shall comply with applicable State and Federal rules (42 CFR. §, 441.301(c) and K.A.R. 30-63-1 Article 63) when developing the PCSP and associated assessments.</p>	<p>[Complaint] through the Person-Centered Service Plan policy and KanCare contract.</p>	<p>No remediation is required.</p>	

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	<p>[Silent] No provision exists requiring the positive interventions and supports be documented prior to a modifications to the person-centered plan. [Silent] No provision exists requiring the identification of a specific and individualized assessed need in the person-centered service plan.</p>			
<p>(3) Document less intrusive methods of meeting the need that have been tried but did not work.</p>	<p>Person-Centered Service Plan I.A.5. All participants of a 1915(c) HCBS waiver shall have a Person-Centered Service Plan completed by their Managed Care Organization.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 Person-Centered Service Planning. B. The CONTRACTOR shall comply with applicable State and Federal rules (42 CFR. §, 441.301(c) and K.A.R. 30-63-1 Article 63) when developing the PCSP and associated assessments.</p> <p>[Silent] No provision exists within the regulation that requires the documentation off less intrusive methods of meeting the need that have been tried before being included within the person-centered service plan[Silent] No provision exists requiring the positive interventions and supports be documented prior to a modifications to the person-centered plan.</p>	<p>[Complaint] through the Person-Centered Service Plan policy and KanCare contract.</p>	<p>No remediation is required.</p>	

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(4) Include a clear description of the condition that is directly proportionate to the specific assessed need.	<p>Person-Centered Service Plan I.A.3. The Person-Centered Service Plan and associated process shall be the document of record demonstrating compliance with 42 CFR § 441.301 and the requirements found within the 1915 (c) HCBS waivers.</p> <p>Person-Centered Service Plan I.A.5. All participants of a 1915(c) HCBS waiver shall have a Person-Centered Service Plan completed by their Managed Care Organization.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 Person-Centered Service Planning. B. The CONTRACTOR shall comply with applicable State and Federal rules (42 CFR. §, 441.301(c) and K.A.R. 30-63-1 Article 63) when developing the PCSP and associated assessments.</p> <p>[Silent] No provision exists within the regulation that requires the documentation of a description of the condition directly proportionate to the specific assessed need.</p>	[Complaint] through the Person-Centered Service Plan policy and KanCare contract.	No remediation is required.	
(5) Include regular collection and review of data to measure the ongoing Effectiveness of the modification.	<p>Person-Centered Service Plan I.A.3. The Person-Centered Service Plan and associated process shall be the document of record demonstrating compliance with 42 CFR § 441.301 and the requirements found within the 1915 (c) HCBS waivers.</p> <p>Person-Centered Service Plan I.A.5. All participants of a 1915(c) HCBS waiver shall have a Person-Centered Service Plan completed by their Managed Care Organization.</p>	[Complaint] through the Person-Centered Service Plan policy and KanCare contract.	No remediation is required.	

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	<p>Person-Centered Service Plan policy II.M.1 Once MCO Care Coordinators complete the Person-Centered Service Plan process they shall monitor delivery of the plan, including conducting a six-month face-to-face visit with the participant or participant's designated legal representative.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 Person-Centered Service Planning. B. The CONTRACTOR shall comply with applicable State and Federal rules (42 CFR. §, 441.301(c) and K.A.R. 30-63-1 Article 63) when developing the PCSP and associated assessments.</p>			
<p>(6) Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.</p>	<p>Person-Centered Service Plan policy II.M.1 Once MCO Care Coordinators complete the Person-Centered Service Plan process they shall monitor delivery of the plan, including conducting a six-month face-to-face visit with the participant or participant's designated legal representative.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 Person-Centered Service Planning. B. The CONTRACTOR shall comply with applicable State and Federal rules (42 CFR. §, 441.301(c) and K.A.R. 30-63-1 Article 63) when developing the PCSP and associated assessments.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 Person-Centered Service Planning. D. The CONTRACTOR(S) shall ensure that the PCSP is reviewed during every contact with the Member and updated at least annually or more often based on changes to Member's needs.</p>	<p>[Complaint] through the Person-Centered Service Plan policy and KanCare contract.</p>	<p>No remediation is required.</p>	

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	<p>KanCare 2.0 RFP Specifications EVT0005464 5.4.5 Service Coordination Stratification Levels and Contact Schedules G. Service Coordination contacts: The CONTRACTOR(S) shall make contacts (telephonic or face-to-face) with the Member based on the Members needs and shall describe how it will comply with the following minimum contact schedule based on the Member's assigned Service Coordination stratification level. At a minimum, each Member receiving Service Coordination will receive an in person contact by the CONTRACTOR(S) staff or a Provider within their network) during either a Service Coordination touch point meeting or other activity: 3. Level III – Chronic Long-Term Needs:</p> <p style="padding-left: 40px;">a. At a minimum monthly telephonic contact and with a minimum of a face-to-face visit every three (3) months.</p>			
(7) Include the informed consent of the individual.	<p>Person-Centered Service Plan policy I.A.4. No Person-Centered Service Plan shall be amended or otherwise changed without the participation of the individual and in compliance with 42 CFR § 441.301 and the 1915 (c) HCBS waivers.</p> <p>Person-Centered Service Plan policy II.G.5. A participant or participant's legal representative shall sign to acknowledge understanding and agreement or disagreement with the Person-Centered Service Plan whenever content adjustments are made that change the scope, amount or duration of services within the plan, including interim changes.</p>	[Complaint] through the Person-Centered Service Plan policy	No remediation is required.	

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	<p>Person-Centered Service Plan policy II.D.3.e During the meeting, the MCO Care Coordinator shall review the PII and provide education and explore the following: i. service options that will assist the participant in progress toward established goals,</p> <p>ii. identified care gaps, including assessing the participant’s understanding of risks and consequences if gaps remain.</p> <p>iii. The MCO Care Coordinator shall, in instances where a participant’s preferences may put him or her at health or safety risk, verify, to the best of their ability, that the participant demonstrates understanding of risk, strategies to mitigate risks, consequences, and shall make appropriate referrals to address risks.</p> <p>iv. restrictions to the participant’s preferences, as stated in the PII or verbally,</p> <p>v. additional community and social supports available to the participant, that may not be furnished directly by the MCO.</p> <p>vi. Participants may use the assistance of non-paid supports, and shall be encouraged to engage with non-paid supports when completing the PII.</p>			

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(8) Include an assurance that interventions and supports will cause no harm to the individual.	<p>Person-Centered Service Plan I.A.3. The Person-Centered Service Plan and associated process shall be the document of record demonstrating compliance with 42 CFR § 441.301 and the requirements found within the 1915 (c) HCBS waivers.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 Person-Centered Service Planning. B. The CONTRACTOR shall comply with applicable State and Federal rules (42 CFR. §, 441.301(c) and K.A.R. 30-63-1 Article 63) when developing the PCSP and associated assessments.</p>	[Complaint] through the Person-Centered Service Plan policy and KanCare contract.	No remediation is required.	

Sheltered Employment

42 CFR 441.301 c Final Rule	Sheltered Employment Regulation K.S.A./K.A.R	Gap	Remediation Strategy	Timeline
Waivers Affected	IDD			
(4) Home and Community-Based Settings. Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan: (i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to	<p>K.A.R. 30-63-21 (a) The provider shall prepare a written person-centered support plan for each person served that shall meet these requirements:(A) In what type of setting the person wants to live; (C) what work or other valued activity the person wants to do; (E) in what social, leisure, religious, or other activities the person wants to participate.</p> <p>K.A.R. 30-63-22 (b) Each person served shall be guaranteed the same rights afforded to individuals without disabilities. These rights may be limited only by provisions of law or court order, including guardianship, conservatorship, power of attorney or</p>	<p>K.A.R.30-62-21(a) lacks a provision ensuring that individual's right to seek competitive employment within an integrated setting.</p> <p>[Compliant] K.A.R 30-63-22(b)</p>	No remediation required.	<p>K.A.R. Public Comment Period: 12/1/2019</p> <p>Legislative Cycle 1/1/2020-6/1/2020</p> <p>Effective Date: 5/31/2020 (dependent upon when the</p>

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the same degree of access as individuals not receiving Medicaid HCBS.	<p>other judicial determination. (8) being free from the inappropriate use of a physical or chemical restraint, medication, or isolation as punishment, for the convenience of a provider or agent, in conflict with a physician's orders or as a substitute for treatment, except when physical restraint is in furtherance of the health and safety of the person; (9) not being required to work without compensation, except when the person is living and being provided services outside of the home of a member of the person's family, and then only for the purposes of the upkeep of the person's own living space and of common living areas and grounds that the person shares with others;</p> <p>K.S.A. 44-1136 Kansas employment first initiative act; definitions; policy declaration. (b) It is hereby declared to be the policy of the state of Kansas that competitive and integrated employment shall be considered its first option when serving persons with disabilities who are of working age to obtain employment. This policy applies to programs and services that provide services and support to help obtain employment for persons with disabilities. All state agencies shall follow this policy and ensure that it is effectively implemented in their programs and services. Nothing in this section shall be construed to require any employer to give preference to hiring people with a disability.</p>	[Compliant] K.S.A. 44-1136 (b)		regulation is signed by the Governor)

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(ii) The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	K.A.R. 30-63-21 (a)(2)(A) Person-centered support planning; implementation. (a) The provider shall prepare a written person-centered support plan for each person served that shall meet these requirements: (2) contain a description of the person's preferred lifestyle, including describing the following: (A) In what type of setting the person wants to live;	[partial compliance] K.A.R. 30-63-21 (a)(2)(A) does not include a provision to allow the individual to choose from non-disability specific settings.	Add to K.A.R. 30-63-21 (a)(2)(A) a provision to allow the individual to choose from non-disability specific settings.	
(iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	<p>K.A.R. 30-63-22 Individual rights and responsibilities.</p> <p>(a) Each provider shall at all times encourage and assist each person served to understand and exercise the person's individual rights and to assume the responsibilities that accompany these rights. (1) Being free from physical or psychological abuse or neglect, and from financial exploitation; (5) having privacy; (8) being free from the inappropriate use of a physical or chemical restraint, medication, or isolation as punishment, for the convenience of a provider or agent, in conflict with a physician's orders or as a substitute for treatment, except when physical restraint is in furtherance of the health and safety of the person; (10) being treated with dignity and respect;</p> <p>K.A.R. 30-63-22 Individual rights and responsibilities.</p> <p>(b) Each person served shall be guaranteed the same rights afforded to individuals without disabilities. These rights may be limited only by provisions of law or court order, including guardianship, conservatorship, power of attorney or other judicial determination. These rights shall include the following: (5) having privacy;</p>	<p>[Partial Compliance] K.A.R. 30-63-22 (a) lacks a provision to ensure protection against coercion.</p> <p>[Conflict] K.A.R. 30-63-22(b) The provision implies the inclusion of restraint under specific circumstances, and is in conflict with the final rule.</p>	Drop language allowing restraint for HCBS members in this setting or add language stating that the restraint of individuals must be consistent with 441.301c (F) Any modification of the additional conditions, under § 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan: "(A) Identify a specific and individualized assessed need, (B) document the positive interventions and supports used prior to any modification to the person-centered service plan, (C) Document less intrusive methods of meeting the need that have been tried but did not work, (D) Include a clear description of the condition that is directly proportionate to the specific assessed need, (E) Include a regular collection and review of data to measure the ongoing effectiveness of the modification, (F) Include established time limits for periodic review to determine if the modification	<p>K.A.R. Public Comment Period: 12/1/2019</p> <p>Legislative Cycle 1/1/2020-6/1/2020</p> <p>Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)</p>

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			<p>is till necessary or can be terminated, (G) Include informed consent of the individual, (H) Includes an assurance that interventions and support will cause no harm to the individual.</p> <p>Additionally add language ensuring the individual's right to be free from coercion.</p>	
<p>(iv) Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.</p>	<p>K.A.R. 30-63-21 Person-Centered support planning; implementation. (a) The provider shall prepare a written person-centered support plan for each person served that shall meet these requirements: (2) contain a description of the person's preferred lifestyle, including describing the following: (A) In what type of setting the person wants to live; (B) with whom the person wants to live; (C) what work or other valued activity the person wants to do; (D) with whom the person wants to socialize; and (E) in what social, leisure, religious, or other activities the person wants to participate; (3) list and describe the necessary activities, training, materials, equipment, assistive technology, and services that are needed to assist the person to achieve the person's preferred lifestyle;</p> <p>K.A.R. 30-63-22 (a) Each provider shall at all times encourage and assist each person served to understand and exercise the person's individual rights and to assume the responsibilities that accompany these rights.</p> <p>K.A.R. 30-63-22 Individual rights and responsibilities. (b) Each person served shall be guaranteed the same rights afforded to individuals without disabilities. These rights may be limited only by provisions of law or court order, including guardianship,</p>	<p>[Partial Compliance] K.A.R. 30-63-21(a) lacks a provision ensuring activities are not regimented.</p> <p>[Compliant] K.A.R. 30-63-22(a)</p> <p>[Compliant] K.A.R. 30-63-22(b)</p>	<p>Add regulation that ensures daily activities are not regimented.</p>	<p>K.A.R. Public Comment Period: 12/1/2019</p> <p>Legislative Cycle 1/1/2020-6/1/2020</p> <p>Effective Date: 5/31/2020 (dependent upon when the regulation is signed by the Governor)</p>

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	conservatorship, power of attorney or other judicial determination. These rights shall include the following: (4) actively and meaningfully making decisions affecting the person's life; (6) being able to associate and communicate publicly or privately with any person or group of people of the person's choice; (7) being able to practice the religion or faith of the person's choice			
(v) Facilitates individual choice regarding services and supports, and who provides them.	<p>K.A.R. 30-63-21 Person-Centered support planning; implementation. (a) The provider shall prepare a written person-centered support plan for each person served that shall meet these requirements: (2) contain a description of the person's preferred lifestyle, including describing the following: (A) In what type of setting the person wants to live; (B) with whom the person wants to live; (C) what work or other valued activity the person wants to do; (D) with whom the person wants to socialize; and (E) in what social, leisure, religious, or other activities the person wants to participate;</p> <p>K.A.R. 30-63-21 Person-Centered support planning; implementation. (a)(3) list and describe the necessary activities, training, materials, equipment, assistive technology, and services that are needed to assist the person to achieve the person's preferred lifestyle; (6) prioritize and structure the delivery of services toward the goal of achieving the person's preferred lifestyle;</p> <p>K.A.R. 30-64-26 Quality enhancement. (a) Each contracting CDDO shall ensure that each service provided by the CDDO or by any affiliate shall be: (1) provided as specified within, and in a manner that is responsive to, the person-centered support plan under</p>	<p>[Compliant] K.A.R. 30-63-21(a)(2)(A-e)</p> <p>[Compliant] K.A.R. 30-63-21(a)(3)(6)</p> <p>[Compliant] K.A.R. 30-64-26 (a)(1-3)</p>	No remediation is required.	

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	which that service is being provided; (2) provided in a manner that offers opportunities of choice to the person being served; and (3) performed in a manner that ensures that all of the person's rights are observed and protected.			
(vi) In a provider-owned or controlled residential setting, in addition to the qualities at § 441.301(c)(4)(i) through (v), the following additional conditions must be met:	Not applicable. Sheltered Employment Workshops are not residential settings.		No remediation is required.	
(A) The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	Not applicable. Sheltered Employment Workshops are not residential settings.		No remediation is required.	

42 CFR 441.301 c Final Rule	Sheltered Employment Regulation K.S.A./K.A.R	Gap	Remediation Strategy	Timeline
Waivers Affected	IDD			
(B) Each individual has privacy in their sleeping or living unit:	Not applicable. Sheltered Employment Workshops are not residential settings.		No remediation is required.	
(1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	Not applicable. Sheltered Employment Workshops are not residential settings.		No remediation is required.	
(2) Individuals sharing units have a choice of roommates in that setting.	Not applicable. Sheltered Employment Workshops are not residential settings.		No remediation is required.	
(3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	Not applicable. Sheltered Employment Workshops are not residential settings.		No remediation is required.	
(C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	Not applicable. Sheltered Employment Workshops are not residential settings.		No remediation is required.	
(D) Individuals are able to have visitors of their choosing at any time.	Not applicable. Sheltered Employment Workshops are not residential settings.		No remediation is required.	

42 CFR 441.301 c Final Rule	Sheltered Employment Regulation K.S.A./K.A.R	Gap	Remediation Strategy	Timeline
Waivers Affected	IDD			
(E) The setting is physically accessible to the individual.	K.A.R. 30-63-30 (a) A provider shall maintain each site in which services are provided to any person and that is owned, leased, or made available by contract to be operated by a provider, any employee or board member of a provider, or any entity owned or controlled by a provider, a provider's employee or a provider's board member, so that the site shall meet these requirements: (10) have appropriate assistive devices and any necessary structural modifications so that the facility meets the needs of persons with physical disabilities;	[Compliant]	No remediation is required.	
(F) Any modification of the additional conditions, under § 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:	Not applicable. Sheltered Employment Workshops are not residential settings.		No remediation is required.	
(1) Identify a specific and individualized assessed need.	Not applicable. Sheltered Employment Workshops are not residential settings.		No remediation is required.	
(2) Document the positive interventions and supports used prior to any modifications to the person-centered service plan.	Not applicable. Sheltered Employment Workshops are not residential settings.		No remediation is required.	

42 CFR 441.301 c Final Rule	Sheltered Employment Regulation K.S.A./K.A.R	Gap	Remediation Strategy	Timeline
Waivers Affected	IDD			
(3) Document less intrusive methods of meeting the need that have been tried but did not work.	Not applicable. Sheltered Employment Workshops are not residential settings.		No remediation is required.	
(4) Include a clear description of the condition that is directly proportionate to the specific assessed need.	Not applicable. Sheltered Employment Workshops are not residential settings.		No remediation is required.	
(5) Include regular collection and review of data to measure the ongoing Effectiveness of the modification.	Not applicable. Sheltered Employment Workshops are not residential settings.		No remediation is required.	
(6) Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.	Not applicable. Sheltered Employment Workshops are not residential settings.		No remediation is required.	
(7) Include the informed consent of the individual.	Not applicable. Sheltered Employment Workshops are not residential settings.		No remediation is required.	
(8) Include an assurance that interventions and supports will cause no harm to the individual.	Not applicable. Sheltered Employment Workshops are not residential settings.		No remediation is required.	

Contracts

Request for Proposal KanCare 2.0

42 CFR 441.301 c Final Rule	Request for Proposal KanCare 2.0 Contract Language	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, FE, PD, TBI, TA, SED			
(4)Home and Community-Based Settings. Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan:	<p>KanCare 2.0 RFP Specifications EVT0005464 5.1.4. Functions and Duties of the Contractor (5) Comply with all other applicable Federal and State statutes and regulations governing CONTRACTOR(S), including Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972 (regarding education programs and activities), the Age Discrimination Act of 1975, the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA) of 1990 as amended, section 1557 of the Patient Protection and Affordable Care Act (PPACA), and Titles XIX and XXI of the SSA.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.11. Special Needs Populations (D)(9) The CONTRACTOR(S) shall monitor the success of the Member's community transition and ensure if enrolled in a HCBS program that the new setting is complaint with the CMS HCBS Setting Final Rule</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.5.1 Credentialing and Re-Credentialing (B) The CONTRACTOR shall: Develop written policies and procedures for identification, recruitment, and retention of Participating Providers to include the establishment and implementation of a uniform credentialing and re-credentialing policy that addresses acute, primary, Behavioral Health and LTSS Providers and meets all applicable State and CMS (42 CFR §</p>	[Compliant]	No remediation is required.	Completion date: 1/1/2019

42 CFR 441.301 c Final Rule	Request for Proposal KanCare 2.0 Contract Language	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, FE, PD, TBI, TA, SED			
	<p>438.214) requirements and comply with the HCBS Settings Final Rule (42 CFR § 441.301(c)(4)).</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.5.1</p> <p>Credentialing and Re-Credentialing (F)(1-5)</p> <p>CONTRACTOR(S) are required to credential and re-credential HCBS Providers consistent with applicable Waiver Provider qualification requirements and credentialing standards identified by the State for HCBS Providers and verify HCBS Provider compliance with Federal settings requirements at 42 CFR § 441.301(c)(4). The CONTRACTOR(S) shall extend consultation and support to its Participating Providers and any Subcontractors to demonstrate compliance with the home- and community-based settings criteria by March 17, 2022 for settings in which the criteria applies. The CONTRACTOR(S) shall identify a process for achieving compliance with the Federal HCBS Settings requirements as follows:</p> <ol style="list-style-type: none"> 1. In the plan of care process, including expectations pertaining to employment and community integration. 2. In verifying Provider compliance with the Rule when credentialing and re-credentialing HCBS Providers. 3. In its CONTRACTOR(S)' Provider Agreements by including language requiring Providers to maintain compliance with the Rule. 			

42 CFR 441.301 c Final Rule	Request for Proposal KanCare 2.0 Contract Language	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, FE, PD, TBI, TA, SED			
	<p>4. In furnishing Provider education and training on the Rule to establish and maintain ongoing compliance.</p> <p>5. Ensure 1915(c) Provider qualifications are met both initially and ongoing.</p>			
<p>(i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.</p>	<p>KanCare 2.0 RFP Specifications EVT0005464 5.4.11. Special Needs Populations (E) (2) the CONTRACTOR(S) shall ensure that the Member's Person-Centered Service Plan or Plan of Service shall support full access to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS.</p>	<p>[Compliant] KanCare 2.0 RFP Specifications EVT0005464 5.4.11. Special Needs Populations (E) (2)</p>	No remediation required.	

42 CFR 441.301 c Final Rule	Request for Proposal KanCare 2.0 Contract Language	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, FE, PD, TBI, TA, SED			
(ii) The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	KanCare 2.0 RFP Specifications EVT0005464 5.1.4. Functions and Duties of the Contractor (5) Comply with all other applicable Federal and State statutes and regulations governing CONTRACTOR(S), including Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972 (regarding education programs and activities), the Age Discrimination Act of 1975, the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA) of 1990 as amended, section 1557 of the Patient Protection and Affordable Care Act (PPACA), and Titles XIX and XXI of the SSA.	[Compliant] The State is amending multiple regulations to ensure the setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are required to be identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	No remediation is required.	
(iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	KanCare 2.0 RFP Specifications EVT0005464 5.10.12 A. In Amendment 6.1 Policies/Procedures, the OR(S) must have written policies regarding the Member rights specified in this section. In Amendment 6.1 Policies/Procedures, the OR(S) must comply with any applicable Federal and State laws that pertain to Member rights and ensure that its staff and affiliated Providers take those rights into account when furnishing services to Members. All Members shall be guaranteed the following rights and protection: 2. Dignity and privacy. Each Member is guaranteed the right to be treated with respect and with due consideration for his or her dignity and privacy.5. Free from restraint or seclusion. Each Member is guaranteed the right to be free from any form of restraint or	[Compliant]	No remediation is required.	

42 CFR 441.301 c Final Rule	Request for Proposal KanCare 2.0 Contract Language	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, FE, PD, TBI, TA, SED			
	seclusion used as a means of coercion, discipline, convenience, or retaliation.			
(iv) Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	<p>KanCare 2.0 RFP Specifications EVT0005464 5.4.11. Special Needs Populations (D)(9) The CONTRACTOR(S) shall monitor the success of the Member's community transition and ensure if enrolled in a HCBS program that the new setting is complaint with the CMS HCBS Setting Final Rule</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.5.1 Credentialing and Re-Credentialing (F)(1-5) CONTRACTOR(S) are required to credential and re-credential HCBS Providers consistent with applicable Waiver Provider qualification requirements and credentialing standards identified by the State for HCBS Providers and verify HCBS Provider compliance with Federal settings requirements at 42 CFR § 441.301(c)(4). The CONTRACTOR(S) shall extend consultation and support to its Participating Providers and any Subcontractors to demonstrate compliance with the home- and community-based settings criteria by March 17, 2022 for settings in which the criteria</p>	[Compliant]	No remediation is required.	

42 CFR 441.301 c Final Rule	Request for Proposal KanCare 2.0 Contract Language	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, FE, PD, TBI, TA, SED			
	<p>applies. The CONTRACTOR(S) shall identify a process for achieving compliance with the Federal HCBS Settings requirements as follows:</p> <ol style="list-style-type: none"> 1. In the plan of care process, including expectations pertaining to employment and community integration. 2. In verifying Provider compliance with the Rule when credentialing and re-credentialing HCBS Providers. 3. In its CONTRACTOR(S)' Provider Agreements by including language requiring Providers to maintain compliance with the Rule. 4. In furnishing Provider education and training on the Rule to establish and maintain ongoing compliance. 5. Ensure 1915(c) Provider qualifications are met both initially and ongoing. 			
(v) Facilitates individual choice regarding services and supports, and who provides them.	<p>MCOs are required to do this via the HCBS waivers. Cite language requiring MCOs to comply with HCBS waivers and the specific waiver language? KanCare 2.0 RFP Specifications EVT0005464 5.10.12 4. Participate in decisions. Each Member is guaranteed the right to participate in decisions regarding his or her health care, including the right to refuse treatment.</p>	<p>[Silent] In Amendment 6.1 Policies/Procedures, the policy implies the individual's right to choice of treatment and the right to refuse treatment. In Amendment 6.1 Policies/Procedures, the policy does not imply the settings responsibility to facilitate these choices.</p>	<p>Add a provision that ensures the setting will facilitates individual choice regarding services and supports, and who provides them.</p>	<p>Completion date: 1/01/2019</p>

42 CFR 441.301 c Final Rule	Request for Proposal KanCare 2.0 Contract Language	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, FE, PD, TBI, TA, SED			
(vi) In a provider-owned or controlled residential setting, in addition to the qualities at § 441.301(c)(4)(i) through (v), the following additional conditions must be met:				
<p>(A) The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.</p>	<p>KanCare 2.0 RFP Specifications EVT0005464 5.4.11. Special Needs Populations (D)(9) The CONTRACTOR(S) shall monitor the success of the Member's community transition and ensure if enrolled in a HCBS program that the new setting is complaint with the CMS HCBS Setting Final Rule</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.5.1 Credentialing and Re-Credentialing (F)(1-5) CONTRACTOR(S) are required to credential and re-credential HCBS Providers consistent with applicable Waiver Provider qualification requirements and credentialing standards identified by the State for HCBS Providers and verify HCBS Provider compliance with Federal settings requirements at 42 CFR § 441.301(c)(4). The CONTRACTOR(S) shall extend consultation and support to its Participating Providers and any Subcontractors to demonstrate compliance with the home- and community-based settings criteria by March 17, 2022 for settings in which the criteria applies. The CONTRACTOR(S) shall identify a process for achieving compliance with the Federal HCBS Settings requirements as follows:</p> <p>6. In the plan of care process, including expectations pertaining to employment and community integration.</p>	[Compliant]	No remediation required.	

42 CFR 441.301 c Final Rule	Request for Proposal KanCare 2.0 Contract Language	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, FE, PD, TBI, TA, SED			
	<div><div>7. In verifying Provider compliance with the Rule when credentialing and re-credentialing HCBS Providers.</div><div>8. In its CONTRACTOR(S)' Provider Agreements by including language requiring Providers to maintain compliance with the Rule.</div><div>9. In furnishing Provider education and training on the Rule to establish and maintain ongoing compliance.</div><div>10. Ensure 1915(c) Provider qualifications are met both initially and ongoing.</div></div>			
(B) Each individual has privacy in their sleeping or living unit:	<div>KanCare 2.0 RFP Specifications EVT0005464 5.5.1 Credentialing and Re-Credentialing (F)(1-5) CONTRACTOR(S) are required to credential and re-credential HCBS Providers consistent with applicable Waiver Provider qualification requirements and credentialing standards identified by the State for HCBS Providers and verify HCBS Provider compliance with Federal settings requirements at 42 CFR § 441.301(c)(4). The CONTRACTOR(S) shall extend consultation and support to its Participating Providers</div>	[Compliant]	No remediation required.	

42 CFR 441.301 c Final Rule	Request for Proposal KanCare 2.0 Contract Language	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, FE, PD, TBI, TA, SED			
	<p>and any Subcontractors to demonstrate compliance with the home- and community-based settings criteria by March 17, 2022 for settings in which the criteria applies. The CONTRACTOR(S) shall identify a process for achieving compliance with the Federal HCBS Settings requirements as follows:</p> <ol style="list-style-type: none"> 11. In the plan of care process, including expectations pertaining to employment and community integration. 12. In verifying Provider compliance with the Rule when credentialing and re-credentialing HCBS Providers. 13. In its CONTRACTOR(S)' Provider Agreements by including language requiring Providers to maintain compliance with the Rule. 14. In furnishing Provider education and training on the Rule to establish and maintain ongoing compliance. 15. Ensure 1915(c) Provider qualifications are met both initially and ongoing. 			
(1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	KanCare 2.0 RFP Specifications EVT0005464 5.5.1 Credentialing and Re-Credentialing (F)(1-5) CONTRACTOR(S) are required to credential and re-credential HCBS Providers consistent with applicable Waiver Provider qualification requirements and	[Compliant]	No remediation required.	

42 CFR 441.301 c Final Rule	Request for Proposal KanCare 2.0 Contract Language	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, FE, PD, TBI, TA, SED			
	<p>credentialing standards identified by the State for HCBS Providers and verify HCBS Provider compliance with Federal settings requirements at 42 CFR § 441.301(c)(4). The CONTRACTOR(S) shall extend consultation and support to its Participating Providers and any Subcontractors to demonstrate compliance with the home- and community-based settings criteria by March 17, 2022 for settings in which the criteria applies. The CONTRACTOR(S) shall identify a process for achieving compliance with the Federal HCBS Settings requirements as follows:</p> <ul style="list-style-type: none"> 16. In the plan of care process, including expectations pertaining to employment and community integration. 17. In verifying Provider compliance with the Rule when credentialing and re-credentialing HCBS Providers. 18. In its CONTRACTOR(S)' Provider Agreements by including language requiring Providers to maintain compliance with the Rule. 19. In furnishing Provider education and training on the Rule to establish and maintain ongoing compliance. 20. Ensure 1915(c) Provider qualifications are met both initially and ongoing. 			

42 CFR 441.301 c Final Rule	Request for Proposal KanCare 2.0 Contract Language	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, FE, PD, TBI, TA, SED			
<p>(2) Individuals sharing units have a choice of roommates in that setting.</p>	<p>KanCare 2.0 RFP Specifications EVT0005464 5.5.1 Credentialing and Re-Credentialing (F)(1-5) CONTRACTOR(S) are required to credential and re-credential HCBS Providers consistent with applicable Waiver Provider qualification requirements and credentialing standards identified by the State for HCBS Providers and verify HCBS Provider compliance with Federal settings requirements at 42 CFR § 441.301(c)(4). The CONTRACTOR(S) shall extend consultation and support to its Participating Providers and any Subcontractors to demonstrate compliance with the home- and community-based settings criteria by March 17, 2022 for settings in which the criteria applies. The CONTRACTOR(S) shall identify a process for achieving compliance with the Federal HCBS Settings requirements as follows:</p> <ul style="list-style-type: none"> 21. In the plan of care process, including expectations pertaining to employment and community integration. 22. In verifying Provider compliance with the Rule when credentialing and re-credentialing HCBS Providers. 23. In its CONTRACTOR(S)' Provider Agreements by including language requiring Providers to maintain compliance with the Rule. 	<p>[Compliant]</p>	<p>No remediation required.</p>	

42 CFR 441.301 c Final Rule	Request for Proposal KanCare 2.0 Contract Language	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, FE, PD, TBI, TA, SED			
	<p>24. In furnishing Provider education and training on the Rule to establish and maintain ongoing compliance.</p> <p>25. Ensure 1915(c) Provider qualifications are met both initially and ongoing.</p>			
<p>(3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.</p>	<p>KanCare 2.0 RFP Specifications EVT0005464 5.5.1 Credentialing and Re-Credentialing (F)(1-5) CONTRACTOR(S) are required to credential and re-credential HCBS Providers consistent with applicable Waiver Provider qualification requirements and credentialing standards identified by the State for HCBS Providers and verify HCBS Provider compliance with Federal settings requirements at 42 CFR § 441.301(c)(4). The CONTRACTOR(S) shall extend consultation and support to its Participating Providers and any Subcontractors to demonstrate compliance with the home- and community-based settings criteria by March 17, 2022 for settings in which the criteria applies. The CONTRACTOR(S) shall identify a process for achieving compliance with the Federal HCBS Settings requirements as follows:</p> <p>26. In the plan of care process, including expectations pertaining to employment and community integration.</p> <p>27. In verifying Provider compliance with the Rule when credentialing and re-credentialing HCBS Providers.</p>	[Compliant]	No remediation required.	

42 CFR 441.301 c Final Rule	Request for Proposal KanCare 2.0 Contract Language	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, FE, PD, TBI, TA, SED			
	<p>28. In its CONTRACTOR(S)' Provider Agreements by including language requiring Providers to maintain compliance with the Rule.</p> <p>29. In furnishing Provider education and training on the Rule to establish and maintain ongoing compliance.</p> <p>30. Ensure 1915(c) Provider qualifications are met both initially and ongoing.</p>			
<p>(C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.</p>	<p>KanCare 2.0 RFP Specifications EVT0005464 5.5.1 Credentialing and Re-Credentialing (F)(1-5) CONTRACTOR(S) are required to credential and re-credential HCBS Providers consistent with applicable Waiver Provider qualification requirements and credentialing standards identified by the State for HCBS Providers and verify HCBS Provider compliance with Federal settings requirements at 42 CFR § 441.301(c)(4). The CONTRACTOR(S) shall extend consultation and support to its Participating Providers and any Subcontractors to demonstrate compliance with the home- and community-based settings criteria by March 17, 2022 for settings in which the criteria applies. The CONTRACTOR(S) shall identify a process for achieving compliance with the Federal HCBS Settings requirements as follows:</p>	[Compliant]	No remediation required.	

42 CFR 441.301 c Final Rule	Request for Proposal KanCare 2.0 Contract Language	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, FE, PD, TBI, TA, SED			
	<p>31. In the plan of care process, including expectations pertaining to employment and community integration.</p> <p>32. In verifying Provider compliance with the Rule when credentialing and re-credentialing HCBS Providers.</p> <p>33. In its CONTRACTOR(S)' Provider Agreements by including language requiring Providers to maintain compliance with the Rule.</p> <p>34. In furnishing Provider education and training on the Rule to establish and maintain ongoing compliance.</p> <p>35. Ensure 1915(c) Provider qualifications are met both initially and ongoing.</p>			
(D) Individuals are able to have visitors of their choosing at any time.	<p>KanCare 2.0 RFP Specifications EVT0005464 5.5.1 Credentialing and Re-Credentialing (F)(1-5) CONTRACTOR(S) are required to credential and re-credential HCBS Providers consistent with applicable Waiver Provider qualification requirements and credentialing standards identified by the State for HCBS Providers and verify HCBS Provider compliance with Federal settings requirements at 42 CFR § 441.301(c)(4). The CONTRACTOR(S) shall extend consultation and support to its Participating Providers and any Subcontractors to demonstrate compliance with the home- and community-based settings criteria</p>	[Compliant]	No remediation required.	

42 CFR 441.301 c Final Rule	Request for Proposal KanCare 2.0 Contract Language	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, FE, PD, TBI, TA, SED			
	<p>by March 17, 2022 for settings in which the criteria applies. The CONTRACTOR(S) shall identify a process for achieving compliance with the Federal HCBS Settings requirements as follows:</p> <p>36. In the plan of care process, including expectations pertaining to employment and community integration.</p> <p>37. In verifying Provider compliance with the Rule when credentialing and re-credentialing HCBS Providers.</p> <p>38. In its CONTRACTOR(S)' Provider Agreements by including language requiring Providers to maintain compliance with the Rule.</p> <p>39. In furnishing Provider education and training on the Rule to establish and maintain ongoing compliance.</p> <p>40. Ensure 1915(c) Provider qualifications are met both initially and ongoing.</p>			
(E) The setting is physically accessible to the individual.	<p>KanCare 2.0 RFP Specifications EVT0005464 5.5.1 Credentialing and Re-Credentialing (F)(1-5) CONTRACTOR(S) are required to credential and re-credential HCBS Providers consistent with applicable Waiver Provider qualification requirements and credentialing standards identified by the State for HCBS Providers and verify HCBS Provider compliance</p>	[Compliant]	No remediation required.	

42 CFR 441.301 c Final Rule	Request for Proposal KanCare 2.0 Contract Language	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, FE, PD, TBI, TA, SED			
	<p>with Federal settings requirements at 42 CFR § 441.301(c)(4). The CONTRACTOR(S) shall extend consultation and support to its Participating Providers and any Subcontractors to demonstrate compliance with the home- and community-based settings criteria by March 17, 2022 for settings in which the criteria applies. The CONTRACTOR(S) shall identify a process for achieving compliance with the Federal HCBS Settings requirements as follows:</p> <ol style="list-style-type: none"> 41. In the plan of care process, including expectations pertaining to employment and community integration. 42. In verifying Provider compliance with the Rule when credentialing and re-credentialing HCBS Providers. 43. In its CONTRACTOR(S)' Provider Agreements by including language requiring Providers to maintain compliance with the Rule. 44. In furnishing Provider education and training on the Rule to establish and maintain ongoing compliance. 45. Ensure 1915(c) Provider qualifications are met both initially and ongoing. 			

42 CFR 441.301 c Final Rule	Request for Proposal KanCare 2.0 Contract Language	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, FE, PD, TBI, TA, SED			
<p>(F) Any modification of the additional conditions, under § 441.301(c) (4) (vi) (A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:</p>	<p>KanCare 2.0 RFP Specifications EVT0005464 5.1.4. Functions and Duties of the Contractor (5) Comply with all other applicable Federal and State statutes and regulations governing CONTRACTOR(S), including Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972 (regarding education programs and activities), the Age Discrimination Act of 1975, the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA) of 1990 as amended, section 1557 of the Patient Protection and Affordable Care Act (PPACA), and Titles XIX and XXI of the SSA.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.2. Health Screening, Health Risk Assessments, and Needs Assessments. F.3.b. A reassessment of the Member’s needs will take place within three (3) calendar days of discovery or notice of significant change in condition or needs. The Person-centered Service Plan (PCSP) will be dictated by State policy or HCBS Waiver, whichever is more restrictive, for HCBS Members. The reassessment can be an update to existing information in the HRA or needs assessment or a new assessment. The PCSP shall be updated to include any new required goals, interventions, or service authorizations for the Member and shall be signed by the Member, his or her guardian, Providers and other relevant parties in accordance with PCSP requirements set forth in Section 5.4.4 or as dictated by State policy for the PCSP or the HCBS Waiver.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 Person-Centered Service Planning. B. The CONTRACTOR shall comply with applicable State and Federal rules (42</p>	<p>[Compliant]</p>	<p>No remediation is required.</p>	

42 CFR 441.301 c Final Rule	Request for Proposal KanCare 2.0 Contract Language	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, FE, PD, TBI, TA, SED			
	<p>CFR. §, 441.301(c) and K.A.R. 30-63-1 Article 63) when developing the PCSP and associated assessments.</p> <p>M2018-041 and M2018-042 Person-Centered Service Plan policy. I.A.3. The Person-Centered Service Plan and associated process shall be the document of record demonstrating compliance with 42 CFR § 441.301 and the requirements found within the 1915 (c) HCBS waivers. 4. No Person-Centered Service Plan shall be amended or otherwise changed without the participation of the individual and in compliance with 42 CFR § 441.301 and the 1915 (c) HCBS waivers.</p>			
(1) Identify a specific and individualized assessed need.	<p>KanCare 2.0 RFP Specifications EVT0005464 5.1.4. Functions and Duties of the Contractor (5) Comply with all other applicable Federal and State statutes and regulations governing CONTRACTOR(S), including Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972 (regarding education programs and activities), the Age Discrimination Act of 1975, the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA) of 1990 as amended, section 1557 of the Patient Protection and Affordable Care Act (PPACA), and Titles XIX and XXI of the SSA.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.2 Health Screening, Health Risk Assessments, and Needs Assessments. (F)(2) The CONTRACTOR(S) shall complete identified needs assessments as indicated by the HRA, in person, within fourteen (14) days of the completed HRA or as directed by HCBS Waiver or State policy for</p>	[Compliant]	No remediation is required.	

42 CFR 441.301 c Final Rule	Request for Proposal KanCare 2.0 Contract Language	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, FE, PD, TBI, TA, SED			
	<p>LTSS and Behavioral Health. (See 42 CFR § 438.210(b)(2)(iii) for requirement for LTSS.) (a) The CONTRACTOR(S) shall use the State prescribed tool designated for each Waiver program for the assessment of HCBS needs after the Member has been determined functionally eligible for the Waiver program.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 Person-Centered Service Planning. B. The CONTRACTOR shall comply with applicable State and Federal rules (42 CFR. §, 441.301(c) and K.A.R. 30-63-1 Article 63) when developing the PCSP and associated assessments.</p>			
(2) Document the positive interventions and supports used prior to any modifications to the person-centered service plan.	<p>KanCare 2.0 RFP Specifications EVT0005464 5.4.2. Health Screening, Health Risk Assessments, and Needs Assessments. F.3.b. A reassessment of the Member's needs will take place within three (3) calendar days of discovery or notice of significant change in condition or needs. The Person-centered Service Plan (PCSP) will be dictated by State policy or HCBS Waiver, whichever is more restrictive, for HCBS Members. The reassessment can be an update to existing information in the HRA or needs assessment or a new assessment. The PCSP shall be updated to include any new required goals, interventions, or service authorizations for the Member and shall be signed by the Member, his or her guardian, Providers and other relevant parties in accordance with PCSP requirements set forth in Section 5.4.4 or as dictated by State policy for the PCSP or the HCBS Waiver.</p>	[Compliant]	No remediation is required.	

42 CFR 441.301 c Final Rule	Request for Proposal KanCare 2.0 Contract Language	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, FE, PD, TBI, TA, SED			
	<p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 Person-Centered Service Planning. B. The CONTRACTOR shall comply with applicable State and Federal rules (42 CFR. §, 441.301(c) and K.A.R. 30-63-1 Article 63) when developing the PCSP and associated assessments.</p> <p>M2018-041 and M2018-042 Person-Centered Service Plan policy. I.A.4. No Person-Centered Service Plan shall be amended or otherwise changed without the participation of the individual and in compliance with 42 CFR § 441.301 and the 1915 (c) HCBS waivers.</p>			
(3) Document less intrusive methods of meeting the need that have been tried but did not work.	<p>KanCare 2.0 RFP Specifications EVT0005464 5.4.2. Health Screening, Health Risk Assessments, and Needs Assessments. F.3.b. A reassessment of the Member's needs will take place within three (3) calendar days of discovery or notice of significant change in condition or needs. The Person-centered Service Plan (PCSP) will be dictated by State policy or HCBS Waiver, whichever is more restrictive, for HCBS Members. The reassessment can be an update to existing information in the HRA or needs assessment or a new assessment. The PCSP shall be updated to include any new required goals, interventions, or service authorizations for the Member and shall be signed by the Member, his or her guardian, Providers and other relevant parties in accordance with PCSP requirements set forth in Section 5.4.4 or as dictated by State policy for the PCSP or the HCBS Waiver.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 Person-Centered Service Planning. B. The CONTRACTOR shall comply with applicable State and Federal rules (42</p>	[Compliant]	No remediation is required.	

42 CFR 441.301 c Final Rule	Request for Proposal KanCare 2.0 Contract Language	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, FE, PD, TBI, TA, SED			
	<p>CFR. §, 441.301(c) and K.A.R. 30-63-1 Article 63) when developing the PCSP and associated assessments.</p> <p>M2018-041 and M2018-042 Person-Centered Service Plan policy. I.A.4. No Person-Centered Service Plan shall be amended or otherwise changed without the participation of the individual and in compliance with 42 CFR § 441.301 and the 1915 (c) HCBS waivers.</p>			
<p>(4) Include a clear description of the condition that is directly proportionate to the specific assessed need.</p>	<p>KanCare 2.0 RFP Specifications EVT0005464 5.4.2. Health Screening, Health Risk Assessments, and Needs Assessments. F.3.b. A reassessment of the Member’s needs will take place within three (3) calendar days of discovery or notice of significant change in condition or needs. The Person-centered Service Plan (PCSP) will be dictated by State policy or HCBS Waiver, whichever is more restrictive, for HCBS Members. The reassessment can be an update to existing information in the HRA or needs assessment or a new assessment. The PCSP shall be updated to include any new required goals, interventions, or service authorizations for the Member and shall be signed by the Member, his or her guardian, Providers and other relevant parties in accordance with PCSP requirements set forth in Section 5.4.4 or as dictated by State policy for the PCSP or the HCBS Waiver.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 <u>Person-Centered Service Planning. B.</u> The CONTRACTOR shall comply with applicable State and Federal rules (42 CFR. §, 441.301(c) and K.A.R. 30-63-1 Article 63) when developing the PCSP and associated assessments.</p>	[Compliant]	No remediation is required.	

42 CFR 441.301 c Final Rule	Request for Proposal KanCare 2.0 Contract Language	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, FE, PD, TBI, TA, SED			
	M2018-041 and M2018-042 Person-Centered Service Plan policy. I.A.4. No Person-Centered Service Plan shall be amended or otherwise changed without the participation of the individual and in compliance with 42 CFR § 441.301 and the 1915 (c) HCBS waivers.			
(5) Include regular collection and review of data to measure the ongoing effectiveness of the modification.	<p>KanCare 2.0 RFP Specifications EVT0005464 5.4.2. Health Screening, Health Risk Assessments, and Needs Assessments. F.3.b. A reassessment of the Member's needs will take place within three (3) calendar days of discovery or notice of significant change in condition or needs. The Person-centered Service Plan (PCSP) will be dictated by State policy or HCBS Waiver, whichever is more restrictive, for HCBS Members. The reassessment can be an update to existing information in the HRA or needs assessment or a new assessment. The PCSP shall be updated to include any new required goals, interventions, or service authorizations for the Member and shall be signed by the Member, his or her guardian, Providers and other relevant parties in accordance with PCSP requirements set forth in Section 5.4.4 or as dictated by State policy for the PCSP or the HCBS Waiver.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 <u>Person-Centered Service Planning. B.</u> The CONTRACTOR shall comply with applicable State and Federal rules (42 CFR. §, 441.301(c) and K.A.R. 30-63-1 Article 63) when developing the PCSP and associated assessments.</p> <p>M2018-041 and M2018-042 Person-Centered Service Plan policy. I.A.4. No Person-Centered Service Plan shall be amended or otherwise changed without the</p>	[Compliant]	No remediation is required.	

42 CFR 441.301 c Final Rule	Request for Proposal KanCare 2.0 Contract Language	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, FE, PD, TBI, TA, SED			
	<p>participation of the individual and in compliance with 42 CFR § 441.301 and the 1915 (c) HCBS waivers.</p> <p>M2018-041 and M2018-042 Person-Centered Service Plan policy. II.M.1.Once MCO Care Coordinators complete the Person-Centered Service Plan process they shall monitor delivery of the plan.</p>			
<p>(6) Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.</p>	<p>KanCare 2.0 RFP Specifications EVT0005464 5.4.5</p> <p>Service Coordination Stratification Levels and Contact Schedules G. Service Coordination contacts: The CONTRACTOR(S) shall make contacts (telephonic or face-to-face) with the Member based on the Members needs and shall describe how it will comply with the following minimum contact schedule based on the Member’s assigned Service Coordination stratification level. At a minimum, each Member receiving Service Coordination will receive an in person contact by the CONTRACTOR(S) staff or a Provider within their network) during either a Service Coordination touch point meeting or other activity: 3. Level III – Chronic Long-Term Needs:</p> <p style="padding-left: 40px;">b. At a minimum monthly telephonic contact and with a minimum of a face-to-face visit every three (3) months.</p>	[Compliant]	No remediation needed.	

42 CFR 441.301 c Final Rule	Request for Proposal KanCare 2.0 Contract Language	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, FE, PD, TBI, TA, SED			
(7) Include the informed consent of the individual.	<p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 Person-Centered Service Planning. B. The CONTRACTOR shall comply with applicable State and Federal rules (42 CFR. §, 441.301(c) and K.A.R. 30-63-1 Article 63) when developing the Person-Centered Service Plan and associated assessments.</p> <p>KanCare 2.0 RFP Specifications EVT0005464 5.10.12 3. Receive information on available treatment options. Each Member is guaranteed the right to receive information on available treatment options and alternatives, presented in a manner appropriate to the Member's condition and ability to understand.</p> <p>M2018-041 and M2018-042 Person-Centered Service Plan policy. I.A.4. No Person-Centered Service Plan shall be amended or otherwise changed without the participation of the individual and in compliance with 42 CFR § 441.301 and the 1915 (c) HCBS waivers.</p>	[Compliant]	No remediation is required.	
(8) Include an assurance that interventions and supports will cause no harm to the individual.	<p>KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 Person-Centered Service Planning. The Person-centered Service Plan (PCSP) is a written service plan developed in accordance with the person-centered planning requirements set forth in Federal regulations and State policy. The PCSP is a written document that describes and records the person-centered Member's goals and service needs. The PCSP records the strategies to meet the goals and interventions selected by the Member and team to support them in improving the Member's health and wellness and in addressing Social Determinants of Health and Independence.</p>	[Compliant]	No remediation is required.	

42 CFR 441.301 c Final Rule	Request for Proposal KanCare 2.0 Contract Language	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, FE, PD, TBI, TA, SED			
	KanCare 2.0 RFP Specifications EVT0005464 5.4.4.2 Person-Centered Service Planning. B. The CONTRACTOR shall comply with applicable State and Federal rules (42 CFR. §, 441.301(c) and K.A.R. 30-63-1 Article 63) when developing the Person-Centered Service Plan and associated assessments.			

Contract KVC 36678

42 CFR 441.301 c Final Rule	KVC 36678 Contract Language\ Licensed Foster Care Homes	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, PD, SED, TA, TBI			
(4)Home and Community-Based Settings. Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan:	Silent KVC 36678	[Silent] In Amendment 6.1 Policies/Procedures, In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021
(i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021

42 CFR 441.301 c Final Rule	KVC 36678 Contract Language\ Licensed Foster Care Homes	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, PD, SED, TA, TBI			
(ii) The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021
(iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021
(iv) Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021
(v) Facilitates individual choice regarding services and supports, and who provides them.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021

42 CFR 441.301 c Final Rule	KVC 36678 Contract Language\ Licensed Foster Care Homes	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, PD, SED, TA, TBI			
(vi) In a provider-owned or controlled residential setting, in addition to the qualities at § 441.301(c)(4)(i) through (v), the following additional conditions must be met:	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021
(A) The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021
(B) Each individual has privacy in their sleeping or living unit:	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021

42 CFR 441.301 c Final Rule	KVC 36678 Contract Language\ Licensed Foster Care Homes	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, PD, SED, TA, TBI			
		HCBS settings and 42 CFR §441.301(c) Final Rule		
(1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021
(2) Individuals sharing units have a choice of roommates in that setting.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021
(3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021

42 CFR 441.301 c Final Rule	KVC 36678 Contract Language\ Licensed Foster Care Homes	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, PD, SED, TA, TBI			
(C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021
(D) Individuals are able to have visitors of their choosing at any time.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021
(E) The setting is physically accessible to the individual.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021
(F) Any modification of the additional conditions, under § 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021

42 CFR 441.301 c Final Rule	KVC 36678 Contract Language\ Licensed Foster Care Homes	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, PD, SED, TA, TBI			
(1) Identify a specific and individualized assessed need.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021
(2) Document the positive interventions and supports used prior to any modifications to the person-centered service plan.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021
(3) Document less intrusive methods of meeting the need that have been tried but did not work.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021
(4) Include a clear description of the condition that is directly proportionate to the specific assessed need.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021

42 CFR 441.301 c Final Rule	KVC 36678 Contract Language\ Licensed Foster Care Homes	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, PD, SED, TA, TBI			
(5) Include regular collection and review of data to measure the ongoing Effectiveness of the modification.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021
(6) Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021
(7) Include the informed consent of the individual.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021
(8) Include an assurance that interventions and supports will cause no harm to the individual.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021

Contract KVC 37679

42 CFR 441.301 c Final Rule	KVC 37679 Contract Language\ Licensed Foster Care Homes	Gap	Remediation Strategy	Timeline
Affected Waivers	AU, IDD, PD, SED, TA, TBI			
(4)Home and Community-Based Settings. Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan:	Silent KVC 37679	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021
(i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021
(ii) The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021

42 CFR 441.301 c Final Rule	KVC 37679 Contract Language\ Licensed Foster Care Homes	Gap	Remediation Strategy	Timeline
Affected Waivers	AU, IDD, PD, SED, TA, TBI			
(iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021
(iv) Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021
(v) Facilitates individual choice regarding services and supports, and who provides them.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021
(vi) In a provider-owned or controlled residential setting, in addition to the qualities at § 441.301(c)(4)(i) through (v), the following additional conditions must be met:	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021

42 CFR 441.301 c Final Rule	KVC 37679 Contract Language\ Licensed Foster Care Homes	Gap	Remediation Strategy	Timeline
Affected Waivers	AU, IDD, PD, SED, TA, TBI			
(A) The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021
(B) Each individual has privacy in their sleeping or living unit:	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021
(1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021

42 CFR 441.301 c Final Rule	KVC 37679 Contract Language\ Licensed Foster Care Homes	Gap	Remediation Strategy	Timeline
Affected Waivers	AU, IDD, PD, SED, TA, TBI			
		HCBS settings and 42 CFR §441.301(c) Final Rule		
(2) Individuals sharing units have a choice of roommates in that setting.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021
(3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021
(C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021

42 CFR 441.301 c Final Rule	KVC 37679 Contract Language\ Licensed Foster Care Homes	Gap	Remediation Strategy	Timeline
Affected Waivers	AU, IDD, PD, SED, TA, TBI			
(D) Individuals are able to have visitors of their choosing at any time.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021
(E) The setting is physically accessible to the individual.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021
(F) Any modification of the additional conditions, under § 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021
(1) Identify a specific and individualized assessed need.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021

42 CFR 441.301 c Final Rule	KVC 37679 Contract Language\ Licensed Foster Care Homes	Gap	Remediation Strategy	Timeline
Affected Waivers	AU, IDD, PD, SED, TA, TBI			
(2) Document the positive interventions and supports used prior to any modifications to the person-centered service plan.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021
(3) Document less intrusive methods of meeting the need that have been tried but did not work.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021
(4) Include a clear description of the condition that is directly proportionate to the specific assessed need.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021
(5) Include regular collection and review of data to measure the ongoing Effectiveness of the modification.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021

42 CFR 441.301 c Final Rule	KVC 37679 Contract Language\ Licensed Foster Care Homes	Gap	Remediation Strategy	Timeline
Affected Waivers	AU, IDD, PD, SED, TA, TBI			
(6) Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021
(7) Include the informed consent of the individual.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021
(8) Include an assurance that interventions and supports will cause no harm to the individual.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 1/1/2021 Completion Date 12/31/2021

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42 CFR 441.301 c Final Rule	St. Francis Contact 37677 Language \ Licensed Foster Care Homes	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, PD, SED, TA, TBI			
(4)Home and Community-Based Settings. Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan:	Silent St. Francis 37677	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021
(i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021
(ii) The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021

42 CFR 441.301 c Final Rule	St. Francis Contact 37677 Language \ Licensed Foster Care Homes	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, PD, SED, TA, TBI			
(iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021
(iv) Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021
(v) Facilitates individual choice regarding services and supports, and who provides them.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021
(vi) In a provider-owned or controlled residential setting, in addition to the qualities at § 441.301(c)(4)(i) through (v), the following additional conditions must be met:	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021

42 CFR 441.301 c Final Rule	St. Francis Contact 37677 Language \ Licensed Foster Care Homes	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, PD, SED, TA, TBI			
(A) The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021
(B) Each individual has privacy in their sleeping or living unit:	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021
(1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021

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Waivers Affected	AU, IDD, PD, SED, TA, TBI			
		HCBS settings and 42 CFR §441.301(c) Final Rule		
(2) Individuals sharing units have a choice of roommates in that setting.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021
(3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021
(C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021

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Waivers Affected	AU, IDD, PD, SED, TA, TBI			
(D) Individuals are able to have visitors of their choosing at any time.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021
(E) The setting is physically accessible to the individual.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021
(F) Any modification of the additional conditions, under § 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021
(1) Identify a specific and individualized assessed need.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021

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Waivers Affected	AU, IDD, PD, SED, TA, TBI			
(2) Document the positive interventions and supports used prior to any modifications to the person-centered service plan.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021
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(4) Include a clear description of the condition that is directly proportionate to the specific assessed need.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021
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42 CFR 441.301 c Final Rule	St. Francis Contact 37677 Language \ Licensed Foster Care Homes	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, PD, SED, TA, TBI			
(6) Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021
(7) Include the informed consent of the individual.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021
(8) Include an assurance that interventions and supports will cause no harm to the individual.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021

Contract St. Francis 37680

42 CFR 441.301 c Final Rule	St Francis 37680 Contract Language \ Licensed Foster Family Care Homes	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, PD, SED, TA, TBI			
(4)Home and Community-Based Settings. Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan:	Silent St. Francis 37680	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS_PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS_PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021
(i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021
(ii) The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021

42 CFR 441.301 c Final Rule	St Francis 37680 Contract Language \ Licensed Foster Family Care Homes	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, PD, SED, TA, TBI			
(iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021
(iv) Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021
(v) Facilitates individual choice regarding services and supports, and who provides them.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021
(vi) In a provider-owned or controlled residential setting, in addition to the qualities at § 441.301(c)(4)(i) through (v), the following additional conditions must be met:	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021

42 CFR 441.301 c Final Rule	St Francis 37680 Contract Language \ Licensed Foster Family Care Homes	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, PD, SED, TA, TBI			
(A) The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021
(B) Each individual has privacy in their sleeping or living unit:	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021
(1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021

42 CFR 441.301 c Final Rule	St Francis 37680 Contract Language \ Licensed Foster Family Care Homes	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, PD, SED, TA, TBI			
		manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule		
(2) Individuals sharing units have a choice of roommates in that setting.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021
(3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021
(C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021

42 CFR 441.301 c Final Rule	St Francis 37680 Contract Language \ Licensed Foster Family Care Homes	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, PD, SED, TA, TBI			
(D) Individuals are able to have visitors of their choosing at any time.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021
(E) The setting is physically accessible to the individual.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021
(F) Any modification of the additional conditions, under § 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021
(1) Identify a specific and individualized assessed need.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021

42 CFR 441.301 c Final Rule	St Francis 37680 Contract Language \ Licensed Foster Family Care Homes	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, PD, SED, TA, TBI			
(2) Document the positive interventions and supports used prior to any modifications to the person-centered service plan.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021
(3) Document less intrusive methods of meeting the need that have been tried but did not work.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021
(4) Include a clear description of the condition that is directly proportionate to the specific assessed need.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021
(5) Include regular collection and review of data to measure the ongoing Effectiveness of the modification.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021

42 CFR 441.301 c Final Rule	St Francis 37680 Contract Language \ Licensed Foster Family Care Homes	Gap	Remediation Strategy	Timeline
Waivers Affected	AU, IDD, PD, SED, TA, TBI			
(6) Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021
(7) Include the informed consent of the individual.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021
(8) Include an assurance that interventions and supports will cause no harm to the individual.	Silent	[Silent] In Amendment 6.1 Policies/Procedures, the states that KVC is subject to all policies and procedures in but not limited to the DCF_PPS PPM Manual. This implies that KVC is therefore subject to any changes to the manual in regards to HCBS settings and 42 CFR §441.301(c) Final Rule	Change policy and DCF_PPS PPM manuals to reflect the final rule in accordance with 42 CFR §441.301(c).	Start Date 7/1/2021 Completion Date 06/30/2021

Manuals

Autism Manual

42 CFR 441.301 c Final Rule	Autism (AU) Manual Policy	Gap	Remediation Strategy	Timeline
(4)Home and Community-Based Settings. Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan:	Autism Manual There are no provider owned or controlled HCBS Autism residential settings.	Silent	Change manual to reflect the final rule in accordance with § .	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that ensures the setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	Revision Date: 1/1/2021 Completion Date: 6/01/2021

42 CFR 441.301 c Final Rule	Autism (AU) Manual Policy	Gap	Remediation Strategy	Timeline
(ii) The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that ensures the setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint'	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(iv) Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	Revision Date: 1/1/2021 Completion Date: 6/01/2021

42 CFR 441.301 c Final Rule	Autism (AU) Manual Policy	Gap	Remediation Strategy	Timeline
(v) Facilitates individual choice regarding services and supports, and who provides them.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that ensures the individual choice regarding services and supports, and who provides them.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(vi) In a provider-owned or controlled residential setting, in addition to the qualities at § 441.301(c)(4)(i) through (v), the following additional conditions must be met:	Not applicable. There are no provider owned or controlled HCBS Autism residential settings.		No remediation is required.	

42 CFR 441.301 c Final Rule	Autism (AU) Manual Policy	Gap	Remediation Strategy	Timeline
(A) The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	Not applicable. There are no provider owned or controlled HCBS Autism residential settings.		No remediation is required.	
(B) Each individual has privacy in their sleeping or living unit:	Not applicable. There are no provider owned or controlled HCBS Autism residential settings.		No remediation is required.	
(1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	Not applicable. There are no provider owned or controlled HCBS Autism residential settings.		No remediation is required.	

42 CFR 441.301 c Final Rule	Autism (AU) Manual Policy	Gap	Remediation Strategy	Timeline
(2) Individuals sharing units have a choice of roommates in that setting.	Not applicable. There are no provider owned or controlled HCBS Autism residential settings.		No remediation is required.	
(3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	Not applicable. There are no provider owned or controlled HCBS Autism residential settings.		No remediation is required.	
(C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	Not applicable. There are no provider owned or controlled HCBS Autism residential settings.		No remediation is required.	
(D) Individuals are able to have visitors of their choosing at any time.	Not applicable. There are no provider owned or controlled HCBS Autism residential settings.		No remediation is required.	
(E) The setting is physically accessible to the individual.	Not applicable. There are no provider owned or controlled HCBS Autism residential settings.		No remediation is required.	

42 CFR 441.301 c Final Rule	Autism (AU) Manual Policy	Gap	Remediation Strategy	Timeline
(F) Any modification of the additional conditions, under § 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:	Not applicable. There are no provider owned or controlled HCBS Autism residential settings.		No remediation is required.	
(1) Identify a specific and individualized assessed need.	Not applicable. There are no provider owned or controlled HCBS Autism residential settings.		No remediation is required.	
(2) Document the positive interventions and supports used prior to any modifications to the person-centered service plan.	Not applicable. There are no provider owned or controlled HCBS Autism residential settings.		No remediation is required.	
(3) Document less intrusive methods of meeting the need that have been tried but did not work.	Not applicable. There are no provider owned or controlled HCBS Autism residential settings.		No remediation is required.	
(4) Include a clear description of the condition that is directly proportionate to the specific assessed need.	Not applicable. There are no provider owned or controlled HCBS Autism residential settings.		No remediation is required.	
(5) Include regular collection and review of data to measure the ongoing Effectiveness of the modification.	Not applicable. There are no provider owned or controlled HCBS Autism residential settings.		No remediation is required.	

42 CFR 441.301 c Final Rule	Autism (AU) Manual Policy	Gap	Remediation Strategy	Timeline
(6) Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.	Not applicable. There are no provider owned or controlled HCBS Autism residential settings.		No remediation is required.	
(7) Include the informed consent of the individual.	Not applicable. There are no provider owned or controlled HCBS Autism residential settings.		No remediation is required.	
(8) Include an assurance that interventions and supports will cause no harm to the individual.	Not applicable. There are no provider owned or controlled HCBS Autism residential settings.		No remediation is required.	

DCF Policy and Procedure Manual

42 CFR 441.301 c Final Rule	Policy \ Licensed Foster Care Homes	Gap	Recommendations	Timeline
(4) Home and Community-Based Settings. Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan:	DCF PPS PPM			Revision Date: 1/1/2021 Completion Date: 6/01/2021

42 CFR 441.301 c Final Rule	Policy \Licensed Foster Care Homes	Gap	Recommendations	Timeline
<p>(i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.</p>	<p><u>3371 Reasonable Efforts</u> A. Reasonable efforts shall be made to prevent the removal of the child from the home. The legal documents (journal entries), prepared by the court, must articulate reasonable efforts the agency made to keep the child at home or demonstrate that an emergency existed and the child's safety was in jeopardy, requiring out of home placement. B. Efforts to Return Child Home: In those situations where a child has been removed from his/her home, the Child Welfare Case Management Provider is responsible for the provision of services to facilitate reintegration. The decision to recommend reintegration is a decision made by and communicated to the court. The primary factors in this decision are the safety and well-being of the child. Demonstrating reasonable efforts to return a child home when there is a concurrent plan is especially important. Services to the family and/or child, which facilitate reintegration, include but are not limited to:</p> <ol style="list-style-type: none"> 1. Assistance in building a family support network; 2. Family counseling/therapy; 3. Assistance in accessing school resources; 4. Parenting Classes; 5. Referral to Drug/Alcohol Treatment; 6. Individual Therapy; 7. In Home Services; 8. Budgeting instruction; 9. Employment services; 10. Housing assistance; 11. Assistance in accessing all applicable community resources; 	<p>[Partially-Compliant] This section is found compliant as the focus of reintegrating the individual back into the home environment implies integration within the greater community to the same degree of access as individuals not receiving Medicaid HCBS. Employment options do not apply to specific age groups. However it is not clear if employment services apply to individuals receiving HCBS or the families as a whole. In any case reintegration into the home environment implies the same access to potential employment opportunities in competitive integrated settings. The manual lists no policy with similar guidelines for youths being placed within the Foster Care environment.</p>	<p>Add language to the policy that ensures individual youths receiving HCBS are placed in environments that supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.</p>	<p>Revision Date: 1/1/2021</p> <p>Completion Date: 6/01/2021</p>

42 CFR 441.301 c Final Rule	Policy \Licensed Foster Care Homes	Gap	Recommendations	Timeline
	12. Assistance with transportation and in developing the family's transportation resources; 13. Development of a safety plan at reintegration; 14. Development of a crisis intervention plan.			
(ii) The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	<u>5922 Waiver Information A. Home and Community Based Services (HCBS)</u> The Medicaid waivers are all considered HCBS waivers. The following is a list of HCBS waivers potentially available to youth served by PPS: 1. Physically Disabled - HCBS/PD 2. Mental Retardation or Development Disabilities - HCBS/MRDD 3. Technology Assisted - HCBS/TA 4. Head Injury - HCBS/HI 5. Severely Emotionally Disturbed - HCBS/SED B. Waivers and Child Welfare Contract Management Provider PPS Child Welfare Contract Management Provider are responsible for referring youth under their case management to the appropriate community resource for a clinical evaluation if they believe the youth may need to utilize the HCBS waiver program. The Child Welfare Contract Management Provider shall also	[Silent] The manual details specific instructions on the entity responsible for referring the youth to HCBS waiver services. The manual does not mention the youth's right to settings including non-disability specific settings or options identified within the person-centered plan. There is no mention in the manual concerning an option for private units within a residential setting where they may apply. However Self Sufficiency planning details the individual needs of the youth	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that ensures the setting is selected by the individual or guardian from among setting options including non-disability specific settings and an option for a private unit in a residential setting when possible. Provide language that insures setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	Revision Date: 1/1/2021 Completion Date: 6/01/2021

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	<p>participate in and support implementation of the waiver plan of care, while coordinating total services to the child.</p> <p>7040 Self-Sufficiency Planning A. Self-Sufficiency planning is a continuous and ongoing process integral to decision making in partnership with the youth. Self-Sufficiency planning is based on evidence-based practice and a strengths-based perspective, which include: Printed Documentation 611</p> <p>1. Engaging youth in a youth-driven service design 2. Treating youth with respect 3. Respecting youth's privacy 4. Involving youth identified supports and connections as active partners in case planning 5. Providing services in the most youth friendly setting possible 6. Linking youth to community-based, diverse, and comprehensive supports and services 7. Strengthening the capacity of the youth to function independently 8. Providing culturally sensitive services to youth.</p>			
<p>(iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.</p>	<p>0291 Physical Restraint</p> <p>The purpose of physical restraint in a Youth Residential Center is to prevent a youth from causing injury to self or others and is used only when other means of behavior control is unsuccessful.</p> <p>It is expected that therapeutic relationships among staff and residents will usually be sufficient to de-escalate incidents of out-of-control behavior of youth in care. When it is not possible to avoid the use of restraint in helping a youth regain control, passive physical restraint may be used to:</p>	<p>(Conflict) The manual is in conflict with the final settings rule as the 0291 Physical Restraint policy implies that restraints are allowed under specific circumstances. There is no policy that ensures the medical necessity of these interventions in accordance with the person-centered service plan. There is no policy that addresses the individual right for the member to be free of coercion and restraint. Nor is there a policy that ensures the right to dignity and respect for the youths.</p>	<p>Add language that reflects the individuals receiving HCBS right to be free from restraint and coercion. Add language stating that an intervention must be consistent with 441.301c (F) Any modification of the additional conditions, under § Change manual to reflect the final rule in accordance with 42 CFR §441.301(c).</p> <p>(A) Identify a specific and individualized assessed need.</p>	<p>Revision Date: 1/1/2021</p> <p>Completion Date: 6/01/2021</p>

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	<p>A. end a disturbance which threatens physical injury to the youth;</p> <p>B. end a disturbance that threatens physical injury to others;</p> <p>C. remove a dangerous object from a youth with which the youth has threatened harm.</p> <p>An emergency safety intervention shall be performed in a manner that is safe, proportionate, and appropriate to the severity of the behavior, and shall take into consideration the resident's chronological and developmental age, size, gender, medical, behavioral health and personal history.</p> <p>Physical restraint is the application of physical force without any mechanical device, for the purpose of restricting the free movement of a resident's body. Physical restraint should be used only as last resort after all verbal de-escalation techniques have failed and when the resident is at-risk of harming themselves or others.</p> <p>Physical restraint shall not be used for the purpose of punishment or discipline.</p> <p>The Department for Children and Families will not purchase or continue to purchase services from providers who use physical restraint in a manner contrary to methods jointly approved by the Department for Children and Families and the Department of Health and Environment or otherwise in violation of statute or regulations.</p> <p>Sexual Abuse: Contact solely between children shall meet the criteria only if the contact also involves force, intimidation, difference in maturity or coercion. K.A.R. 30-46-10 (i)</p> <p>1640 Reports Alleging Sexual Behavior or Abuse Between Children Less Than 10 years of Age: C. any force or coercion by any child involved;</p>		<p>(B) Document the positive interventions and supports used prior to any modifications to the person-centered service plan.</p> <p>(C) Document less intrusive methods of meeting the need that have been tried but did not work.</p> <p>(D) Include a clear description of the condition that is directly proportionate to the specific assessed need</p> <p>(E) Include regular collection and review of data to measure the ongoing effectiveness of the modification.</p> <p>(F) Include established time limits for periodic reviews to determine if the modification</p>	

42 CFR 441.301 c Final Rule	Policy \Licensed Foster Care Homes	Gap	Recommendations	Timeline
	<p>2502 Allowable Case Findings For each allegation of abuse/neglect one of the following case finding decisions shall be made:</p> <p>C. Substantiated d. Any contact or interaction with a child in which the child is being used for the sexual stimulation of the perpetrator, the child or another person. Sexual abuse shall include, but is not limited to, allowing, permitting or Contact solely between children shall meet the criteria only if the contact also involves force, intimidation, difference in maturity or coercion. K.A.R. 30-46-10 (i)encouraging a child to:</p> <p>0292 Use of Time Out in Residential Child Care Facilities A. A resident in time out must never be physically prevented from leaving the time out area.</p>		<p>is still necessary or can be terminated.</p> <p>(G) Include informed consent of the individual.</p> <p>Include an assurance that interventions and supports will not cause harm to the individual.</p> <p>(A) Through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan: Add language that Ensures an individual's rights of privacy, dignity and respect.</p>	
<p>(iv) Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.</p>	<p>7040 Self-Sufficiency Planning A. Self-Sufficiency planning is a continuous and ongoing process integral to decision making in partnership with the youth. Self-Sufficiency planning is based on evidence-based practice and a strengths-based perspective, which include: Printed Documentation 611</p> <p>1. Engaging youth in a youth-driven service design 2. Treating youth with respect 3. Respecting youth's privacy 4. Involving youth identified supports and connections as active partners in case planning 5. Providing services in the most youth friendly setting possible 6. Linking youth to community-based, diverse, and comprehensive supports and services 7. Strengthening the capacity of the youth to</p>	<p>[partially-compliant] Self-Sufficiency planning promotes the individuals autonomy and independence in making life choices in so far as a youth is capable of making these choices. However the policy is [Silent] in ensuring the settings do not regiment daily activities and the youths choices with whom they interact. However the regulation must recognize that these youth have been removed from the home and naturally have restrictions on the individuals they can interact.</p>	<p>Add language that reflects ensures the setting Optimizes, but does not regiment, daily activities, physical environment, and with whom to interact. Include language that any modification of the additional conditions, under paragraph (c) (4) (vi) (A) through (D) of this section, must be supported by a specific assessed need and justified in the person-centered service plan.</p>	<p>Revision Date: 1/1/2021</p> <p>Completion Date: 6/01/2021</p>

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	function independently 8. Providing culturally sensitive services to youth.			
(v) Facilitates individual choice regarding services and supports, and who provides them.	<p>5922 Waiver Information A. Home and Community Based Services (HCBS) The Medicaid waivers are all considered HCBS waivers. The following is a list of HCBS waivers potentially available to youth served by PPS:</p> <ol style="list-style-type: none"> 1. Physically Disabled - HCBS/PD 2. Mental Retardation or Development Disabilities - HCBS/MRDD 3. Technology Assisted - HCBS/TA 4. Head Injury - HCBS/HI 5. Severely Emotionally Disturbed - HCBS/SED <p>B. Waivers and Child Welfare Contract Management Provider PPS Child Welfare Contract Management Provider are responsible for referring youth under their case management to the appropriate community resource for a clinical evaluation if they believe the youth may need to utilize the HCBS waiver program. The Child Welfare Contract Management Provider shall also participate in and support implementation of the waiver plan of care, while coordinating total services to the child.</p>	[Silent] There is no policy that reflects the expectation individuals receiving HCBS will have individual choice regarding services, supports, and who provides them. The regulation must recognize the minor status of the youths in these programs and differ the responsibility a reasonable expectation of choice in these services to the guardian or consenting authority.	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that ensures the individual choice regarding services and supports, and who provides them to the youth's legal guardian or consenting authority.	Revision Date: 1/1/2021 Completion Date: 6/01/2021

42 CFR 441.301 c Final Rule	Policy \Licensed Foster Care Homes	Gap	Recommendations	Timeline
(vi) In a provider-owned or controlled residential setting, in addition to the qualities at § 441.301(c)(4)(i) through (v), the following additional conditions must be met:				
(A) The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	Does not apply	<p>The individuals are youths and are not expected nor are they capable of legally contracting to a rental agreement.</p> <p>10500 Providing Services A. Continuum of Interventions</p> <p>Assessment shall determine appropriate service delivery. The APS Specialist shall consider least restrictive options first. If it is unclear what level of assistance the involved adult may need, the APS Specialist may complete the PPS 10610, Decision Making and Functional Assessment: Criteria for Legal Impairment: A Multi-Disciplinary Tool.</p> <p>The following is a continuum of interventions in order of least restrictive, informal support to most restrictive, full guardianship: 2. Formal community intervention including but not limited to Home and Community Based Services, Home Health Care or power of attorney if the adult has capacity and there is an appropriate option for health care decisions;</p>	<p>Adults Protection Service Specialists ensure that the person-centered service plan is observed when placing adults in HCBS under 10500 Providing Services B. in order to make sure the setting and services complies with the final rule 42 CFR §441.301(c).</p>	<p>Revision Date: 1/1/2021</p> <p>Completion Date: 6/01/2021</p>

42 CFR 441.301 c Final Rule	Policy \Licensed Foster Care Homes	Gap	Recommendations	Timeline
(B) Each individual has privacy in their sleeping or living unit:	Silent		Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that ensures Each individual has privacy in their sleeping or living unit:	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	Silent		Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that ensures Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(2) Individuals sharing units have a choice of roommates in that setting.	Silent		Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that ensures Individuals sharing units have a choice of roommates in that setting.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	Silent		Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that ensures Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	Silent		Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that ensures Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(D) Individuals are able to have visitors of their choosing at any time.	Silent		Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that ensures Individuals are able to have visitors of their choosing at any time.	Revision Date: 1/1/2021 Completion Date: 6/01/2021

42 CFR 441.301 c Final Rule	Policy \Licensed Foster Care Homes	Gap	Recommendations	Timeline
(E) The setting is physically accessible to the individual.	Silent		Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that ensures The setting is physically accessible to the individual (ADA Compliance).	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(F) Any modification of the additional conditions, under § 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:	Silent	There is no mention of the person-centered service plan in the PPM. References to the Plan of Care should be amended to reflect the PCSP in accordance with 42 CFR §441.301(c) KDADS PCSP Policy	Add language establishing a requirement that Any modification of the additional conditions, under §441.301(c) (4) (vi) (A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(1) Identify a specific and individualized assessed need.	Silent	There is no mention of the person-centered service plan in the PPM. References to the Plan of Care should be amended to reflect the PCSP in accordance with 42 CFR §441.301(c)	Add language that reflects the requirement that the person-centered service plan Identify a specific and individualized assessed need.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(2) Document the positive interventions and supports used prior to any modifications to the person-centered service plan.	Silent	There is no mention of the person-centered service plan in the PPM. References to the Plan of Care should be amended to reflect the PCSP in accordance with 42 CFR §441.301(c)	Add language that requires the documentation of positive interventions and supports used prior to any modifications to the person-centered service plan.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(3) Document less intrusive methods of meeting the need that have been tried but did not work.	Silent	There is no mention of the person-centered service plan in the PPM. References to the Plan of Care should be amended to reflect the PCSP in accordance with 42 CFR §441.301(c)	Add language that requires the documentation of less intrusive methods of meeting the need that have been tried but did not work.	Revision Date: 1/1/2021 Completion Date: 6/01/2021

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(4) Include a clear description of the condition that is directly proportionate to the specific assessed need.	Silent	There is no mention of the person-centered service plan in the PPM. References to the Plan of Care should be amended to reflect the PCSP in accordance with 42 CFR §441.301(c)	Add language that includes within the person-centered plan a clear description of the condition that is directly proportionate to the specific assessed need.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(5) Include regular collection and review of data to measure the ongoing Effectiveness of the modification.	Silent	There is no mention of the person-centered service plan in the PPM. References to the Plan of Care should be amended to reflect the PCSP in accordance with 42 CFR §441.301(c)	Add language that establishes the regular collection, documentation and review of data to measure the ongoing Effectiveness of the modification.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(6) Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.	Silent	There is no mention of the person-centered service plan in the PPM. References to the Plan of Care should be amended to reflect the PCSP in accordance with 42 CFR §441.301(c)	Add language that requires the establishment of time limits for the periodic reviews of the person-centered service plan and any modifications to determine if the modification is still necessary or can be terminated.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(7) Include the informed consent of the individual.	0280 Consents Persons authorized to give consent for matters involving a child depends on the purpose of the consent and the legal status of the child. Consents for children who are or may be in need of care are controlled primarily by K.S.A. 38-2217 for health care and K.S.A. 38-2218 for educational decisions. (K.S.A. 38-2217). See PPM 5244 for information regarding children in the custody of the Secretary.	[Silent] As the individual is a minor they cannot give consent. However no policy exists that ensures informed consent of the legal guardian or other authority with consent powers for the individual receiving HCBS services.	Add language that requires informed consent of the person-centered plan by the guardian or individual with consent authority.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(8) Include an assurance that interventions and supports will cause no harm to the individual.	Silent	[Silent] There is no assurance within the policy manual that that the interventions will cause no harm to the individual.	Add language that provides assurance within the person-centered service plan, stating no harm will come to the individual as a result of interventions and supports listed within the plan.	Revision Date: 1/1/2021 Completion Date: 6/01/2021

Frail and Elderly Manual

42 CFR 441.301 c Final Rule	Frail and Elderly (FE) Manual Policy	Gap	Remediation Strategy	Timeline
(4)Home and Community-Based Settings. Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan:	FE Manual Applies to Assisted Living, Home Plus, Boarding Care Home, and Adult Day Care settings.	Silent	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c) (4) Setting Final Rule.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that ensures the setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	Revision Date: 1/1/2021 Completion Date: 6/01/2021

42 CFR 441.301 c Final Rule	Frail and Elderly (FE) Manual Policy	Gap	Remediation Strategy	Timeline
(ii) The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c)(4). Add language that ensures the setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c)(4). Add language that Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint'	Revision Date: 1/1/2021 Completion Date: 6/01/2021

42 CFR 441.301 c Final Rule	Frail and Elderly (FE) Manual Policy	Gap	Remediation Strategy	Timeline
(iv) Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c)(4). Add language that optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(v) Facilitates individual choice regarding services and supports, and who provides them.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c)(4). Add language that ensures the individual choice regarding services and supports, and who provides them.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(vi) In a provider-owned or controlled residential setting, in addition to the qualities at § 441.301(c)(4)(i) through (v), the following additional conditions must be met:				

42 CFR 441.301 c Final Rule	Frail and Elderly (FE) Manual Policy	Gap	Remediation Strategy	Timeline
<p>(A) The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.</p>	<p>Silent</p>	<p>[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).</p>	<p>Change manual to reflect the final rule in accordance with 42 CFR §441.301(c)(4). Add language that ensures the unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.</p>	<p>Revision Date: 1/1/2021</p> <p>Completion Date: 6/01/2021</p>

42 CFR 441.301 c Final Rule	Frail and Elderly (FE) Manual Policy	Gap	Remediation Strategy	Timeline
(B) Each individual has privacy in their sleeping or living unit:	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c)(4).	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c)(4).	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(2) Individuals sharing units have a choice of roommates in that setting.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c)(4).	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c)(4).	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c)(4).	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(D) Individuals are able to have visitors of their choosing at any time.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c)(4).	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(E) The setting is physically accessible to the individual.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c)(4).	Revision Date: 1/1/2021 Completion Date: 6/01/2021

42 CFR 441.301 c Final Rule	Frail and Elderly (FE) Manual Policy	Gap	Remediation Strategy	Timeline
(F) Any modification of the additional conditions, under § 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Add language establishing a requirement that Any modification of the additional conditions, under §441.301(c) (4) (vi) (A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(1) Identify a specific and individualized assessed need.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Add language that reflects the requirement that the person-centered service plan Identify a specific and individualized assessed need.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(2) Document the positive interventions and supports used prior to any modifications to the person-centered service plan.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Add language that requires the documentation of positive interventions and supports used prior to any modifications to the person-centered service plan.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(3) Document less intrusive methods of meeting the need that have been tried but did not work.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Add language that requires the documentation of less intrusive methods of meeting the need that have been tried but did not work.	Revision Date: 1/1/2021 Completion Date: 6/01/2021

42 CFR 441.301 c Final Rule	Frail and Elderly (FE) Manual Policy	Gap	Remediation Strategy	Timeline
(4) Include a clear description of the condition that is directly proportionate to the specific assessed need.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Add language that includes within the person-centered plan a clear description of the condition that is directly proportionate to the specific assessed need.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(5) Include regular collection and review of data to measure the ongoing Effectiveness of the modification.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Add language that establishes the regular collection, documentation and review of data to measure the ongoing Effectiveness of the modification.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(6) Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Add language that requires the establishment of time limits for the periodic reviews of the person-centered service plan and any modifications to determine if the modification is still necessary or can be terminated.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(7) Include the informed consent of the individual.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Add language that requires informed consent of the person-centered plan.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(8) Include an assurance that interventions and supports will cause no harm to the individual.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Add language that provides assurance within the person-centered service plan, stating no harm will come to the individual as a result of	Revision Date: 1/1/2021 Completion Date: 6/01/2021

42 CFR 441.301 c Final Rule	Frail and Elderly (FE) Manual Policy	Gap	Remediation Strategy	Timeline
			interventions and supports listed within the plan.	

Financial Management Services Manual

Reviewers performed a gap analysis on the KDADS published Manual [Financial Management Services Manual](#) p. 6.5.B.4-3 which states that services must occur in the home or community location meeting the setting requirements as defined in the “HCBS Setting Final Rule”. Services furnished to an individual who is an inpatient or resident of a hospital, nursing facility, intermediate care facility for persons with intellectual disability (ID), or institution for mental disease are not covered and will not be reimbursed. This policy was found compliant with 42 CFR 441.301 C Final Rule as the policy indicates that services will be delivered only in community locations whose setting are defined in the “HCBS Setting Final Rule”. This includes all items in 42 CFR §441.301(c) (4).

Intellectual Developmental Disability Manual

42 CFR 441.301 c Final Rule	Intellectual Developmental Disability (IDD) Manual Policy	Gap	Remediation Strategy	Timeline
(4)Home and Community-Based Settings. Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan:	IDD Provider Manual	Silent	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c) (4) Setting Final Rule.	Revision Date: 1/1/2021 Completion Date: 6/01/2021

42 CFR 441.301 c Final Rule	Intellectual Developmental Disability (IDD) Manual Policy	Gap	Remediation Strategy	Timeline
<p>(i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.</p>	<p>IDD Provider Manual p. 8-4; Day Supports Provider Requirements A provider of HCBS I/DD Day Supports must be a recognized CDDO or an affiliate, as well as licensed by the Kansas Department for Aging and Disability Services (KDADS) to provide this service.</p>	<p>[Non-compliant] Does not state services provided in settings must be integrated in and support full access to greater community.</p>	<p>Amend requirements section to meet requirement. Change language in the manual to ensure the setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.</p>	<p>Revision Date: 1/1/2021</p> <p>Completion Date: 6/01/2021</p>
<p>(ii) The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.</p>	<p>IDD Provider Manual p. 8-4; This applies to Applies to Foster Care Residential Group Home, Foster Licensed/Managed by DCF, Home Plus, Boarding Care homes, Residential Care Facilities, IDD Residential Care shared and Group, IDD Day Services, Sheltered Employment, and Disability Specific Day Camp/Day Settings.</p>	<p>[Non-compliant] Does not state individual will have the ability to select the setting.</p>	<p>Amend requirements section to ensure the setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.</p>	<p>Revision Date: 1/1/2021</p> <p>Completion Date: 6/01/2021</p>

42 CFR 441.301 c Final Rule	Intellectual Developmental Disability (IDD) Manual Policy	Gap	Remediation Strategy	Timeline
(iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint'	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(iv) Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(v) Facilitates individual choice regarding services and supports, and who provides them.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that ensures the individual choice regarding services and supports, and who provides them.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(vi) In a provider-owned or controlled residential setting, in addition to the qualities at § 441.301(c)(4)(i) through (v), the following additional conditions must be met:				

42 CFR 441.301 c Final Rule	Intellectual Developmental Disability (IDD) Manual Policy	Gap	Remediation Strategy	Timeline
<p>(A) The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.</p>	<p>Silent</p>	<p>[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).</p>	<p>Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that ensures the unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.</p>	<p>Revision Date: 1/1/2021</p> <p>Completion Date: 6/01/2021</p>
<p>(B) Each individual has privacy in their sleeping or living unit:</p>	<p>Silent</p>	<p>[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).</p>	<p>Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that ensures Each</p>	<p>Revision Date: 1/1/2021</p> <p>Completion Date: 6/01/2021</p>

42 CFR 441.301 c Final Rule	Intellectual Developmental Disability (IDD) Manual Policy	Gap	Remediation Strategy	Timeline
			individual has privacy in their sleeping or living unit:	
(1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that ensures Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(2) Individuals sharing units have a choice of roommates in that setting.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that ensures Individuals sharing units have a choice of roommates in that setting.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that ensures Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that ensures Individuals have the freedom and support to control their own schedules and activities,	Revision Date: 1/1/2021 Completion Date: 6/01/2021

42 CFR 441.301 c Final Rule	Intellectual Developmental Disability (IDD) Manual Policy	Gap	Remediation Strategy	Timeline
			and have access to food at any time.	
(D) Individuals are able to have visitors of their choosing at any time.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that ensures Individuals are able to have visitors of their choosing at any time.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(E) The setting is physically accessible to the individual.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that ensures The setting is physically accessible to the individual (ADA Compliance).	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(F) Any modification of the additional conditions, under § 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Add language establishing a requirement that Any modification of the additional conditions, under §441.301(c) (4) (vi) (A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(1) Identify a specific and individualized assessed need.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Add language that reflects the requirement that the person-centered service plan	Revision Date: 1/1/2021

42 CFR 441.301 c Final Rule	Intellectual Developmental Disability (IDD) Manual Policy	Gap	Remediation Strategy	Timeline
			Identify a specific and individualized assessed need.	Completion Date: 6/01/2021
(2) Document the positive interventions and supports used prior to any modifications to the person-centered service plan.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Add language that requires the documentation of positive interventions and supports used prior to any modifications to the person-centered service plan.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(3) Document less intrusive methods of meeting the need that have been tried but did not work.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Add language that requires the documentation of less intrusive methods of meeting the need that have been tried but did not work.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(4) Include a clear description of the condition that is directly proportionate to the specific assessed need.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Add language that includes within the person-centered plan a clear description of the condition that is directly proportionate to the specific assessed need.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(5) Include regular collection and review of data to measure the ongoing Effectiveness of the modification.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Add language that establishes the regular collection, documentation and review of data to measure the ongoing Effectiveness of the modification.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(6) Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Add language that requires the establishment of time limits for the periodic reviews of the person-centered service plan and any modifications to determine if the	Revision Date: 1/1/2021 Completion Date: 6/01/2021

42 CFR 441.301 c Final Rule	Intellectual Developmental Disability (IDD) Manual Policy	Gap	Remediation Strategy	Timeline
			modification is still necessary or can be terminated.	
(7) Include the informed consent of the individual.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Add language that requires informed consent of the person-centered plan.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(8) Include an assurance that interventions and supports will cause no harm to the individual.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Add language that provides assurance within the person-centered service plan, stating no harm will come to the individual as a result of interventions and supports listed within the plan.	Revision Date: 1/1/2021 Completion Date: 6/01/2021

Physical Disability Manual

42 CFR 441.301 c Final Rule	Physical Disability (PD) Manual Policy	Gap	Recommendation	Timeline
(4)Home and Community-Based Settings. Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan:	PD Provider manual under Personal Care Services p. 8-10 and 8-11; the policy reads The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	[Partially-Compliant] Although the policy indicates that services will be delivered only in community locations whose setting are defined in the “HCBS Setting Final Rule” and this includes all items in 42 CFR §441.301(c)(4). There is on statement that insures this portion of the policy extends to the remaining services under the manual. Therefore the policy is partially compliant in regards to the final rule.	Clarify what the setting requirements are in accordance with 42 CFR 441.401c. Add language that extends the Personal Care Service assurance throughout the other services listed in the manual e.g. The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	Revision Date: 1/1/2021 Completion Date: 6/01/2021

42 CFR 441.301 c Final Rule	Physical Disability (PD) Manual Policy	Gap	Recommendation	Timeline
(i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	PD Provider manual under Personal Care Services p. 8-10 and 8-11; the policy reads The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	[Partially-Compliant] Although the policy indicates that services will be delivered only in community locations whose setting are defined in the “HCBS Setting Final Rule” and this includes all items in 42 CFR §441.301(c) (4). There is on statement that insures this portion of the policy extends to the remaining services under the manual. Therefore the policy is partially compliant in regards to the final rule.	Clarify what the setting requirements are in accordance with 42 CFR 441.401c. Add language that extends the Personal Care Service assurance throughout the other services listed in the manual e.g. The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(ii) The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	PD Provider manual under Personal Care Services p. 8-10 and 8-11; the policy reads The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	[Partially-Compliant] Although the policy indicates that services will be delivered only in community locations whose setting are defined in the “HCBS Setting Final Rule” and this includes all items in 42 CFR §441.301(c) (4). There is on statement that insures this portion of the policy extends to the remaining services under the manual. Therefore the policy is partially compliant in regards to the final rule.	Clarify what the setting requirements are in accordance with 42 CFR 441.401c. Add language that extends the Personal Care Service assurance throughout the other services listed in the manual e.g. The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	PD Provider manual under Personal Care Services p. 8-10 and 8-11; the policy reads The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	[Partially-Compliant] Although the policy indicates that services will be delivered only in community locations whose setting are defined in the “HCBS Setting Final Rule” and this includes all items in 42 CFR §441.301(c) (4). There is on statement that insures this portion of the policy extends to the remaining services under the manual. Therefore the policy is partially compliant in regards to the final rule.	Clarify what the setting requirements are in accordance with 42 CFR 441.401c. Add language that extends the Personal Care Service assurance throughout the other services listed in the manual e.g. The service must occur in the home or community	Revision Date: 1/1/2021 Completion Date: 6/01/2021

42 CFR 441.301 c Final Rule	Physical Disability (PD) Manual Policy	Gap	Recommendation	Timeline
			location meeting the setting requirements as defined in the HCBS Setting Final Rule.	
(iv) Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	PD Provider manual under Personal Care Services p. 8-10 and 8-11; the policy reads The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	[Partially-Compliant] Although the policy indicates that services will be delivered only in community locations whose setting are defined in the “HCBS Setting Final Rule” and this includes all items in 42 CFR §441.301(c) (4). There is on statement that insures this portion of the policy extends to the remaining services under the manual. Therefore the policy is partially compliant in regards to the final rule.	Clarify what the setting requirements are in accordance with 42 CFR 441.401c. Add language that extends the Personal Care Service assurance throughout the other services listed in the manual e.g. The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(v) Facilitates individual choice regarding services and supports, and who provides them.	PD Provider manual under Personal Care Services p. 8-10 and 8-11; the policy reads The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	[Partially-Compliant] Although the policy indicates that services will be delivered only in community locations whose setting are defined in the “HCBS Setting Final Rule” and this includes all items in 42 CFR §441.301(c) (4). There is on statement that insures this portion of the policy extends to the remaining services under the manual. Therefore the policy is partially compliant in regards to the final rule.	Clarify what the setting requirements are in accordance with 42 CFR 441.401c. Add language that extends the Personal Care Service assurance throughout the other services listed in the manual e.g. The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(vi) In a provider-owned or controlled residential setting, in addition to the qualities at § 441.301(c)(4)(i) through (v), the following additional conditions must be met:	PD Provider manual under Personal Care Services p. 8-10 and 8-11; the policy reads The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	[Partially-Compliant] Although the policy indicates that services will be delivered only in community locations whose setting are defined in the “HCBS Setting Final Rule” and this includes all items in 42 CFR §441.301(c) (4). There is on statement that insures this	Clarify what the setting requirements are in accordance with 42 CFR 441.401c. Add language that extends the Personal Care Service assurance	Revision Date: 1/1/2021 Completion Date: 6/01/2021

42 CFR 441.301 c Final Rule	Physical Disability (PD) Manual Policy	Gap	Recommendation	Timeline
		portion of the policy extends to the remaining services under the manual. Therefore the policy is partially compliant in regards to the final rule.	throughout the other services listed in the manual e.g. The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	
(A) The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	PD Provider manual under Personal Care Services p. 8-10 and 8-11; the policy reads The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	[Partially-Compliant] Although the policy indicates that services will be delivered only in community locations whose setting are defined in the “HCBS Setting Final Rule” and this includes all items in 42 CFR §441.301(c) (4). There is on statement that insures this portion of the policy extends to the remaining services under the manual. Therefore the policy is partially compliant in regards to the final rule.	Clarify what the setting requirements are in accordance with 42 CFR 441.401c. Add language that extends the Personal Care Service assurance throughout the other services listed in the manual e.g. The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(B) Each individual has privacy in their sleeping or living unit:	PD Provider manual under Personal Care Services p. 8-10 and 8-11; the policy reads The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	[Partially-Compliant] Although the policy indicates that services will be delivered only in community locations whose setting are defined in the “HCBS Setting Final Rule” and this includes all items in 42 CFR §441.301(c) (4). There is on statement that insures this portion of the policy extends to the remaining services under the manual. Therefore the policy is partially compliant in regards to the final rule.	Clarify what the setting requirements are in accordance with 42 CFR 441.401c. Add language that extends the Personal Care Service assurance throughout the other services listed in the manual e.g. The service must occur in the home or community location meeting the setting	Revision Date: 1/1/2021 Completion Date: 6/01/2021

42 CFR 441.301 c Final Rule	Physical Disability (PD) Manual Policy	Gap	Recommendation	Timeline
			requirements as defined in the HCBS Setting Final Rule.	
(1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	PD Provider manual under Personal Care Services p. 8-10 and 8-11; the policy reads The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	[Partially-Compliant] Although the policy indicates that services will be delivered only in community locations whose setting are defined in the “HCBS Setting Final Rule” and this includes all items in 42 CFR §441.301(c) (4). There is on statement that insures this portion of the policy extends to the remaining services under the manual. Therefore the policy is partially compliant in regards to the final rule.	Clarify what the setting requirements are in accordance with 42 CFR 441.401c. Add language that extends the Personal Care Service assurance throughout the other services listed in the manual e.g. The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(2) Individuals sharing units have a choice of roommates in that setting.	PD Provider manual under Personal Care Services p. 8-10 and 8-11; the policy reads The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	[Partially-Compliant] Although the policy indicates that services will be delivered only in community locations whose setting are defined in the “HCBS Setting Final Rule” and this includes all items in 42 CFR §441.301(c) (4). There is on statement that insures this portion of the policy extends to the remaining services under the manual. Therefore the policy is partially compliant in regards to the final rule.	Clarify what the setting requirements are in accordance with 42 CFR 441.401c. Add language that extends the Personal Care Service assurance throughout the other services listed in the manual e.g. The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	PD Provider manual under Personal Care Services p. 8-10 and 8-11; the policy reads The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	[Partially-Compliant] Although the policy indicates that services will be delivered only in community locations whose setting are defined in the “HCBS Setting Final Rule” and this includes all items in 42 CFR §441.301(c) (4). There is on statement that insures this portion of the policy extends to the	Clarify what the setting requirements are in accordance with 42 CFR 441.401c. Add language that extends the Personal Care Service assurance throughout the other	Revision Date: 1/1/2021 Completion Date: 6/01/2021

42 CFR 441.301 c Final Rule	Physical Disability (PD) Manual Policy	Gap	Recommendation	Timeline
		remaining services under the manual. Therefore the policy is partially compliant in regards to the final rule.	services listed in the manual e.g. The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	
(C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	PD Provider manual under Personal Care Services p. 8-10 and 8-11; the policy reads The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	[Partially-Compliant] Although the policy indicates that services will be delivered only in community locations whose setting are defined in the “HCBS Setting Final Rule” and this includes all items in 42 CFR §441.301(c) (4). There is on statement that insures this portion of the policy extends to the remaining services under the manual. Therefore the policy is partially compliant in regards to the final rule.	Clarify what the setting requirements are in accordance with 42 CFR 441.401c. Add language that extends the Personal Care Service assurance throughout the other services listed in the manual e.g. The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(D) Individuals are able to have visitors of their choosing at any time.	PD Provider manual under Personal Care Services p. 8-10 and 8-11; the policy reads The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	[Partially-Compliant] Although the policy indicates that services will be delivered only in community locations whose setting are defined in the “HCBS Setting Final Rule” and this includes all items in 42 CFR §441.301(c) (4). There is on statement that insures this portion of the policy extends to the remaining services under the manual. Therefore the policy is partially compliant in regards to the final rule.	Clarify what the setting requirements are in accordance with 42 CFR 441.401c. Add language that extends the Personal Care Service assurance throughout the other services listed in the manual e.g. The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(E) The setting is physically accessible to the individual.	PD Provider manual under Personal Care Services p. 8-10 and 8-11; the policy reads The service must occur in the home or community location meeting the setting	[Partially-Compliant] Although the policy indicates that services will be delivered only in community locations whose setting are defined in the “HCBS Setting Final Rule” and	Clarify what the setting requirements are in accordance with 42 CFR 441.401c. Add language that	Revision Date: 1/1/2021 Completion Date: 6/01/2021

42 CFR 441.301 c Final Rule	Physical Disability (PD) Manual Policy	Gap	Recommendation	Timeline
	requirements as defined in the HCBS Setting Final Rule.	this includes all items in 42 CFR §441.301(c) (4). There is on statement that insures this portion of the policy extends to the remaining services under the manual. Therefore the policy is partially compliant in regards to the final rule.	extends the Personal Care Service assurance throughout the other services listed in the manual e.g. The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	
(F) Any modification of the additional conditions, under § 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:	PD Provider manual under Personal Care Services p. 8-10 and 8-11; the policy reads The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	[Partially-Compliant] Although the policy indicates that services will be delivered only in community locations whose setting are defined in the “HCBS Setting Final Rule” and this includes all items in 42 CFR §441.301(c) (4). There is on statement that insures this portion of the policy extends to the remaining services under the manual. Therefore the policy is partially compliant in regards to the final rule.	Clarify what the setting requirements are in accordance with 42 CFR 441.401c. Add language that extends the Personal Care Service assurance throughout the other services listed in the manual e.g. The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(1) Identify a specific and individualized assessed need.	PD Provider manual under Personal Care Services p. 8-10 and 8-11; the policy reads The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	[Partially-Compliant] Although the policy indicates that services will be delivered only in community locations whose setting are defined in the “HCBS Setting Final Rule” and this includes all items in 42 CFR §441.301(c) (4). There is on statement that insures this portion of the policy extends to the remaining services under the manual. Therefore the policy is partially compliant in regards to the final rule.	Clarify what the setting requirements are in accordance with 42 CFR 441.401c. Add language that extends the Personal Care Service assurance throughout the other services listed in the manual e.g. The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	Revision Date: 1/1/2021 Completion Date: 6/01/2021

42 CFR 441.301 c Final Rule	Physical Disability (PD) Manual Policy	Gap	Recommendation	Timeline
(2) Document the positive interventions and supports used prior to any modifications to the person-centered service plan.	PD Provider manual under Personal Care Services p. 8-10 and 8-11; the policy reads The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	[Partially-Compliant] Although the policy indicates that services will be delivered only in community locations whose setting are defined in the “HCBS Setting Final Rule” and this includes all items in 42 CFR §441.301(c) (4). There is on statement that insures this portion of the policy extends to the remaining services under the manual. Therefore the policy is partially compliant in regards to the final rule.	Clarify what the setting requirements are in accordance with 42 CFR 441.401c. Add language that extends the Personal Care Service assurance throughout the other services listed in the manual e.g. The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(3) Document less intrusive methods of meeting the need that have been tried but did not work.	PD Provider manual under Personal Care Services p. 8-10 and 8-11; the policy reads The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	[Partially-Compliant] Although the policy indicates that services will be delivered only in community locations whose setting are defined in the “HCBS Setting Final Rule” and this includes all items in 42 CFR §441.301(c) (4). There is on statement that insures this portion of the policy extends to the remaining services under the manual. Therefore the policy is partially compliant in regards to the final rule.	Clarify what the setting requirements are in accordance with 42 CFR 441.401c. Add language that extends the Personal Care Service assurance throughout the other services listed in the manual e.g. The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(4) Include a clear description of the condition that is directly proportionate to the specific assessed need.	PD Provider manual under Personal Care Services p. 8-10 and 8-11; the policy reads The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	[Partially-Compliant] Although the policy indicates that services will be delivered only in community locations whose setting are defined in the “HCBS Setting Final Rule” and this includes all items in 42 CFR §441.301(c) (4). There is on statement that insures this portion of the policy extends to the remaining services under the manual. Therefore the policy is partially compliant in regards to the final rule.	Clarify what the setting requirements are in accordance with 42 CFR 441.401c. Add language that extends the Personal Care Service assurance throughout the other services listed in the manual e.g. The service must occur in the home or community	Revision Date: 1/1/2021 Completion Date: 6/01/2021

42 CFR 441.301 c Final Rule	Physical Disability (PD) Manual Policy	Gap	Recommendation	Timeline
			location meeting the setting requirements as defined in the HCBS Setting Final Rule.	
(5) Include regular collection and review of data to measure the ongoing Effectiveness of the modification.	PD Provider manual under Personal Care Services p. 8-10 and 8-11; the policy reads The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	[Partially-Compliant] Although the policy indicates that services will be delivered only in community locations whose setting are defined in the “HCBS Setting Final Rule” and this includes all items in 42 CFR §441.301(c) (4). There is on statement that insures this portion of the policy extends to the remaining services under the manual. Therefore the policy is partially compliant in regards to the final rule.	Clarify what the setting requirements are in accordance with 42 CFR 441.401c. Add language that extends the Personal Care Service assurance throughout the other services listed in the manual e.g. The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(6) Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.	PD Provider manual under Personal Care Services p. 8-10 and 8-11; the policy reads The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	[Partially-Compliant] Although the policy indicates that services will be delivered only in community locations whose setting are defined in the “HCBS Setting Final Rule” and this includes all items in 42 CFR §441.301(c) (4). There is on statement that insures this portion of the policy extends to the remaining services under the manual. Therefore the policy is partially compliant in regards to the final rule.	Clarify what the setting requirements are in accordance with 42 CFR 441.401c. Add language that extends the Personal Care Service assurance throughout the other services listed in the manual e.g. The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(7) Include the informed consent of the individual.	PD Provider manual under Personal Care Services p. 8-10 and 8-11; the policy reads The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	[Partially-Compliant] Although the policy indicates that services will be delivered only in community locations whose setting are defined in the “HCBS Setting Final Rule” and this includes all items in 42 CFR §441.301(c) (4). There is on statement that insures this	Clarify what the setting requirements are in accordance with 42 CFR 441.401c. Add language that extends the Personal Care Service assurance	Revision Date: 1/1/2021 Completion Date: 6/01/2021

42 CFR 441.301 c Final Rule	Physical Disability (PD) Manual Policy	Gap	Recommendation	Timeline
		portion of the policy extends to the remaining services under the manual. Therefore the policy is partially compliant in regards to the final rule..	throughout the other services listed in the manual e.g. The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	
(8) Include an assurance that interventions and supports will cause no harm to the individual.	PD Provider manual under Personal Care Services p. 8-10 and 8-11; the policy reads The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	[Partially-Compliant] Although the policy indicates that services will be delivered only in community locations whose setting are defined in the “HCBS Setting Final Rule” and this includes all items in 42 CFR §441.301(c) (4). There is on statement that insures this portion of the policy extends to the remaining services under the manual. Therefore the policy is partially compliant in regards to the final rule.	Clarify what the setting requirements are in accordance with 42 CFR 441.401c. Add language that extends the Personal Care Service assurance throughout the other services listed in the manual e.g. The service must occur in the home or community location meeting the setting requirements as defined in the HCBS Setting Final Rule.	Revision Date: 1/1/2021 Completion Date: 6/01/2021

Serious Emotional Disturbance Waiver Manual

The SED manual is currently out of date and being revised. As to avoid any disinformation this version has been pulled from public distribution and is no longer available. Please direct any questions concerning the manual to the Kansas Department of Aging and Disability Services (KDADS) to the KDADS SED Program Manager.

42 CFR 441.301 c Final Rule	SED Waiver Manual Policy	Gap	Recommendation	Status
(4)Home and Community-Based Settings. Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan:	SED Waiver Manual	[Silent] No language exists in the policy that insures HCBS settings will have qualities based on the needs of the individual as indicated in the person-centered service plan.	Add language that insures individuals receiving HCBS will be in a setting that will have qualities based on the needs of the individual as indicated in the person-centered service plan.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(4)Home and Community-Based Settings. Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan:	Silent	Silent No language exists in the policy that insures the SED setting will have qualities appropriate based on the needs of the individual as indicated in the person-centered service plan.	Add language that insures the SED setting will have qualities appropriate based on the needs of the individual as indicated in the person-centered service plan in compliance with 42CFR441.301c.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	Silent	Silent No provision exists that insures the SED setting supports the full access of the individual receiving HCBS in the setting to the greater community, employment opportunities to engage in community life, or receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	Add language that insures SED setting supports the full access of the individual receiving HCBS in the setting to the greater community, employment opportunities to engage in community life, or receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	Revision Date: 1/1/2021 Completion Date: 6/01/2021

42 CFR 441.301 c Final Rule	SED Waiver Manual Policy	Gap	Recommendation	Status
(ii) The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	Silent	[Silent] There is no provision in the policy that insures the setting is selected by the individual. There is no provision that insures the setting include non-disability specific settings or options for residential settings or that the choices are recorded in the person-centered service plan. SED waiver participants are juveniles and these choices are deferred to their guardians. The SED Waiver Manual makes no reference to these choices in regards to the guardians of the HCBS members and is therefore silent.	Add language to the policy that insures either the individual or guardian of the individual will be placed in a setting receiving HCBS will have the right to select the setting from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	Silent	[Silent] No provision exists within the waiver manual that Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	Add language to the policy that Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint. Add language stating that the restraint of individuals must be consistent with 441.301c (F) Any modification of the additional conditions, under § 441.301(c) (4) (vi) (A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(iv) Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	Silent	[Silent] No provision exists within the waiver manual that optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact	Add language to the policy that optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact	Revision Date: 1/1/2021 Completion Date: 6/01/2021

42 CFR 441.301 c Final Rule	SED Waiver Manual Policy	Gap	Recommendation	Status
(v) Facilitates individual choice regarding services and supports, and who provides them.	Silent	[Silent] No Provision exists within the waiver manual that ensures the setting will facilitates individual choice regarding services and supports, and who provides them. SED waiver participants are juveniles and these choices are deferred to their guardians. The SED Waiver Manual makes no reference to these choices in regards to the guardians of the HCBS members and is therefore silent.	Add language that ensures either the individual or guardian of the individual will be placed in a setting that facilitates individual choice regarding services and supports, and who provides them.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(vi) In a provider-owned or controlled residential setting, in addition to the qualities at § 441.301(c)(4)(i) through (v), the following additional conditions must be met:	Not Applicable. There are no SED provider-owned or controlled residential settings.		No remediation is required.	
(A) The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	Not Applicable. There are no SED provider-owned or controlled residential settings.			

42 CFR 441.301 c Final Rule	SED Waiver Manual Policy	Gap	Recommendation	Status
(B) Each individual has privacy in their sleeping or living unit:	Not Applicable. There are no SED provider-owned or controlled residential settings.	[	No remediation is required.	
(1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	Not Applicable. There are no SED provider-owned or controlled residential settings.	[	No remediation is required.	
(2) Individuals sharing units have a choice of roommates in that setting.	Not Applicable. There are no SED provider-owned or controlled residential settings.	[	No remediation is required.	
(3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	Not Applicable. There are no SED provider-owned or controlled residential settings.	[	No remediation is required.	
(C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	Not Applicable. There are no SED provider-owned or controlled residential settings.	[	No remediation is required.	
(D) Individuals are able to have visitors of their choosing at any time.	Not Applicable. There are no SED provider-owned or controlled residential settings.	[	No remediation is required.	
(E) The setting is physically accessible to the individual.	Not Applicable. There are no SED provider-owned or controlled residential settings.	[	No remediation is required.	
(F) Any modification of the additional conditions, under § 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:	Not Applicable. There are no SED provider-owned or controlled residential settings.	[	No remediation is required.	

42 CFR 441.301 c Final Rule	SED Waiver Manual Policy	Gap	Recommendation	Status
(1) Identify a specific and individualized assessed need.	Not Applicable. There are no SED provider-owned or controlled residential settings.	[	No remediation is required.	
(2) Document the positive interventions and supports used prior to any modifications to the person-centered service plan.	Not Applicable. There are no SED provider-owned or controlled residential settings.	[	No remediation is required.	
(3) Document less intrusive methods of meeting the need that have been tried but did not work.	Not Applicable. There are no SED provider-owned or controlled residential settings.	[	No remediation is required.	
(4) Include a clear description of the condition that is directly proportionate to the specific assessed need.	Not Applicable. There are no SED provider-owned or controlled residential settings.	[	No remediation is required.	
(5) Include regular collection and review of data to measure the ongoing Effectiveness of the modification.	Not Applicable. There are no SED provider-owned or controlled residential settings.	[	No remediation is required.	
(6) Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.	Not Applicable. There are no SED provider-owned or controlled residential settings.	[	No remediation is required.	
(7) Include the informed consent of the individual.	Not Applicable. There are no SED provider-owned or controlled residential settings.	[	No remediation is required.	
(8) Include an assurance that interventions and supports will cause no harm to the individual.	Not Applicable. There are no SED provider-owned or controlled residential settings.	[	No remediation is required.	

Technology Assisted Provider Manual

42 CFR 441.301 c Final Rule	Technology Assisted (TA) Policy	Gap	Remediation Strategy	Timeline
(4)Home and Community-Based Settings. Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan:	TA Provider Manual	Silent	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c) (4) Setting Final Rule.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that ensures the setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	Revision Date: 1/1/2021 Completion Date: 6/01/2021

42 CFR 441.301 c Final Rule	Technology Assisted (TA) Policy	Gap	Remediation Strategy	Timeline
(ii) The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that ensures the setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint'	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(iv) Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities,	Revision Date: 1/1/2021 Completion Date: 6/01/2021

42 CFR 441.301 c Final Rule	Technology Assisted (TA) Policy	Gap	Remediation Strategy	Timeline
			physical environment, and with whom to interact.	
(v) Facilitates individual choice regarding services and supports, and who provides them.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that ensures the individual choice regarding services and supports, and who provides them.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(vi) In a provider-owned or controlled residential setting, in addition to the qualities at § 441.301(c)(4)(i) through (v), the following additional conditions must be met:	Not Applicable. There are no HCBS TA provider-owned or controlled residential settings.	[	No remediation is required.	

42 CFR 441.301 c Final Rule	Technology Assisted (TA) Policy	Gap	Remediation Strategy	Timeline
(A) The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	Not Applicable. There are no HCBS TA provider-owned or controlled residential settings.	[	No remediation is required.	
(B) Each individual has privacy in their sleeping or living unit:	Not Applicable. There are no HCBS TA provider-owned or controlled residential settings.	[	No remediation is required.	
(1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	Not Applicable. There are no HCBS TA provider-owned or controlled residential settings.	[	No remediation is required.	
(2) Individuals sharing units have a choice of roommates in that setting.	Not Applicable. There are no HCBS TA provider-owned or controlled residential settings.	[	No remediation is required.	

42 CFR 441.301 c Final Rule	Technology Assisted (TA) Policy	Gap	Remediation Strategy	Timeline
(3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	Not Applicable. There are no HCBS TA provider-owned or controlled residential settings.	[	No remediation is required.	
(C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	Not Applicable. There are no HCBS TA provider-owned or controlled residential settings.	[	No remediation is required.	
(D) Individuals are able to have visitors of their choosing at any time.	Not Applicable. There are no HCBS TA provider-owned or controlled residential settings.	[	No remediation is required.	
(E) The setting is physically accessible to the individual.	Not Applicable. There are no HCBS TA provider-owned or controlled residential settings.	[	No remediation is required.	
(F) Any modification of the additional conditions, under § 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:	Not Applicable. There are no HCBS TA provider-owned or controlled residential settings.	[	No remediation is required.	
(1) Identify a specific and individualized assessed need.	Not Applicable. There are no HCBS TA provider-owned or controlled residential settings.	[	No remediation is required.	
(2) Document the positive interventions and supports used prior to any modifications to the person-centered service plan.	Not Applicable. There are no HCBS TA provider-owned or controlled residential settings.	[	No remediation is required.	

42 CFR 441.301 c Final Rule	Technology Assisted (TA) Policy	Gap	Remediation Strategy	Timeline
(3) Document less intrusive methods of meeting the need that have been tried but did not work.	Not Applicable. There are no HCBS TA provider-owned or controlled residential settings.	[	No remediation is required.	
(4) Include a clear description of the condition that is directly proportionate to the specific assessed need.	Not Applicable. There are no HCBS TA provider-owned or controlled residential settings.	[	No remediation is required.	
(5) Include regular collection and review of data to measure the ongoing Effectiveness of the modification.	Not Applicable. There are no HCBS TA provider-owned or controlled residential settings.	[	No remediation is required.	
(6) Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.	Not Applicable. There are no HCBS TA provider-owned or controlled residential settings.	[	No remediation is required.	
(7) Include the informed consent of the individual.	Not Applicable. There are no HCBS TA provider-owned or controlled residential settings.	[	No remediation is required.	
(8) Include an assurance that interventions and supports will cause no harm to the individual.	Not Applicable. There are no HCBS TA provider-owned or controlled residential settings.	[	No remediation is required.	

Traumatic Brain Injury Manual

42 CFR 441.301 c Final Rule	Traumatic Brain Injury (TBI) Manual Policy	Gap	Remediation Strategy	Timeline
(4)Home and Community-Based Settings. Home and community-based settings must have all of the following qualities, and such other qualities as the Secretary determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan:	TBI Provider Manual	Silent	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c) (4) Setting Final Rule.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(i) The setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that ensures the setting is integrated in and supports full access of individuals receiving Medicaid HCBS to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.	Revision Date: 1/1/2021 Completion Date: 6/01/2021

42 CFR 441.301 c Final Rule	Traumatic Brain Injury (TBI) Manual Policy	Gap	Remediation Strategy	Timeline
(ii) The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that ensures the setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(iii) Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(iv) Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities,	Revision Date: 1/1/2021 Completion Date: 6/01/2021

42 CFR 441.301 c Final Rule	Traumatic Brain Injury (TBI) Manual Policy	Gap	Remediation Strategy	Timeline
			physical environment, and with whom to interact.	
(v) Facilitates individual choice regarding services and supports, and who provides them.	Silent	[Silent] There is no provision in the manual that ensures the setting is compliant with 42 CFR §441.301(c)(4).	Change manual to reflect the final rule in accordance with 42 CFR §441.301(c). Add language that ensures the individual choice regarding services and supports, and who provides them.	Revision Date: 1/1/2021 Completion Date: 6/01/2021
(vi) In a provider-owned or controlled residential setting, in addition to the qualities at § 441.301(c)(4)(i) through (v), the following additional conditions must be met:	Not Applicable. There are no HCBS TBI provider-owned or controlled residential settings.	[	No remediation is required.	

42 CFR 441.301 c Final Rule	Traumatic Brain Injury (TBI) Manual Policy	Gap	Remediation Strategy	Timeline
(A) The unit or dwelling is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord/tenant law of the State, county, city, or other designated entity. For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement or other form of written agreement will be in place for each HCBS participant, and that the document provides protections that address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.	Not Applicable. There are no HCBS TBI provider-owned or controlled residential settings.	[	No remediation is required.	
(B) Each individual has privacy in their sleeping or living unit:	Not Applicable. There are no HCBS TBI provider-owned or controlled residential settings.	[	No remediation is required.	
(1) Units have entrance doors lockable by the individual, with only appropriate staff having keys to doors.	Not Applicable. There are no HCBS TBI provider-owned or controlled residential settings.	[	No remediation is required.	
(2) Individuals sharing units have a choice of roommates in that setting.	Not Applicable. There are no HCBS TBI provider-owned or controlled residential settings.	[	No remediation is required.	
(3) Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement.	Not Applicable. There are no HCBS TBI provider-owned or controlled residential settings.	[	No remediation is required.	

42 CFR 441.301 c Final Rule	Traumatic Brain Injury (TBI) Manual Policy	Gap	Remediation Strategy	Timeline
(C) Individuals have the freedom and support to control their own schedules and activities, and have access to food at any time.	Not Applicable. There are no HCBS TBI provider-owned or controlled residential settings.	[	No remediation is required.	
(D) Individuals are able to have visitors of their choosing at any time.	Not Applicable. There are no HCBS TBI provider-owned or controlled residential settings.	[	No remediation is required.	
(E) The setting is physically accessible to the individual.	Not Applicable. There are no HCBS TBI provider-owned or controlled residential settings.	[	No remediation is required.	
(F) Any modification of the additional conditions, under § 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. The following requirements must be documented in the person-centered service plan:	Not Applicable. There are no HCBS TBI provider-owned or controlled residential settings.	[	No remediation is required.	
(1) Identify a specific and individualized assessed need.	Not Applicable. There are no HCBS TBI provider-owned or controlled residential settings.	[	No remediation is required.	
(2) Document the positive interventions and supports used prior to any modifications to the person-centered service plan.	Not Applicable. There are no HCBS TBI provider-owned or controlled residential settings.	[	No remediation is required.	
(3) Document less intrusive methods of meeting the need that have been tried but did not work.	Not Applicable. There are no HCBS TBI provider-owned or controlled residential settings.	[No remediation is required.	

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(4) Include a clear description of the condition that is directly proportionate to the specific assessed need.	Not Applicable. There are no HCBS TBI provider-owned or controlled residential settings.	[No remediation is required.	
(5) Include regular collection and review of data to measure the ongoing Effectiveness of the modification.	Not Applicable. There are no HCBS TBI provider-owned or controlled residential settings.	[	No remediation is required.	
(6) Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.	Not Applicable. There are no HCBS TBI provider-owned or controlled residential settings.	[	No remediation is required.	
(7) Include the informed consent of the individual.	Not Applicable. There are no HCBS TBI provider-owned or controlled residential settings.	[	No remediation is required.	
(8) Include an assurance that interventions and supports will cause no harm to the individual.	Not Applicable. There are no HCBS TBI provider-owned or controlled residential settings.	[	No remediation is required.	